



**2015/0287(COD)**

15.2.2017

# **AMENDMENTS**

## **69 - 308**

**Draft report**

**Evelyne Gebhardt, Axel Voss**  
(PE592.444v01-00)

Contracts for the supply of digital content

Proposal for a directive  
(COM(2015)0634 – C8-0394/2015 – 2015/0287(COD))



**Amendment 69**

**Notis Marias**

**Draft legislative resolution**

**Citation 6 a (new)**

*Draft legislative resolution*

*Amendment*

- *having regard to Protocol (No 1) of the Treaty on the Functioning of the European Union on the role of national parliaments in the European Union,*

Or. el

**Amendment 70**

**Notis Marias**

**Draft legislative resolution**

**Citation 6 b (new)**

*Draft legislative resolution*

*Amendment*

- *having regard to Protocol (No 2) of the Treaty on the Functioning of the European Union (TFEU) on the application of the principles of subsidiarity and proportionality,*

Or. el

**Amendment 71**

**Axel Voss, Eva Maydell**

**Proposal for a directive**

**Title 1**

*Text proposed by the Commission*

*Amendment*

Proposal for a  
DIRECTIVE OF THE EUROPEAN  
PARLIAMENT AND OF THE COUNCIL  
on certain aspects concerning contracts for  
the supply of digital content  
(Text with EEA relevance)

Proposal for a  
DIRECTIVE OF THE EUROPEAN  
PARLIAMENT AND OF THE COUNCIL  
on certain aspects concerning contracts for  
the supply of digital content *and digital*

*services*  
(Text with EEA relevance)

Or. en

**Amendment 72**  
**Marco Zullo**

**Proposal for a directive**  
**Title 1**

*Text proposed by the Commission*

Proposal for a  
DIRECTIVE OF THE EUROPEAN  
PARLIAMENT AND OF THE COUNCIL  
on certain aspects concerning contracts for  
the supply of digital content  
(Text with EEA relevance)

*Amendment*

Proposal for a  
DIRECTIVE OF THE EUROPEAN  
PARLIAMENT AND OF THE COUNCIL  
on certain aspects concerning contracts for  
the supply of digital content **and digital  
services**  
(Text with EEA relevance)

Or. it

**Amendment 73**  
**Mylène Troszczynski**

**Proposal for a directive**  
**Recital 1**

*Text proposed by the Commission*

(1) The growth potential of e-commerce ***has not yet been fully*** exploited. ***The*** Digital Single Market Strategy for Europe<sup>29</sup> ***tackles in a holistic manner the major*** obstacles to the development of cross-border e-commerce in the Union ***in order to unleash this potential. Ensuring better access for consumers to digital content and facilitating businesses to supply digital content is necessary to boost the Union's digital economy and stimulate overall growth.***

*Amendment*

(1) The growth potential of e-commerce ***is substantially under-exploited. It cannot be effectively exploited through the implementation of the*** Digital Single Market Strategy for Europe<sup>29</sup>, ***whose sole objective is to remove*** obstacles to the development of cross-border e-commerce in the Union, ***in other words to remove any possibility for national political and economic decision-making.***

Or. fr

*Justification*

*Full integration of the digital single market is not a panacea for the economic problems facing the various nations of Europe. Quite the contrary: the single market and its digital component are incubators of the economic and trade difficulties some EU countries are experiencing. The single market is a major cause of the downgrading of the French economy. To deny the validity of independent national economic policies is to deny people the right of self-determination.*

**Amendment 74**

**Marlene Mizzi**

**Proposal for a directive**

**Recital 1**

*Text proposed by the Commission*

(1) The growth potential of e-commerce has not yet been fully exploited. ***The Digital Single Market Strategy for Europe***<sup>29</sup> tackles ***in a holistic manner the*** major obstacles to the development of cross-border e-commerce in the Union in order to unleash ***this*** potential. Ensuring better access for consumers to digital content and facilitating businesses to supply digital content is necessary to boost the Union's digital economy ***and*** stimulate overall growth.

*Amendment*

(1) The growth potential of e-commerce has not yet been fully exploited. ***This Directive*** tackles major obstacles to the development of cross-border e-commerce in the Union in order to unleash ***its full*** potential. Ensuring better access for consumers to digital content ***or digital services, providing remedies for consumers in case of lack of conformity or a failure to supply the digital content or digital services*** and facilitating businesses to supply digital content ***and digital services*** is necessary to boost the Union's digital economy, stimulate overall growth ***and increase consumer trust in the Digital Single Market.***

---

<sup>29</sup> COM (2015) 192 final.

Or. en

**Amendment 75**

**Maria Grapini**

**Proposal for a directive**  
**Recital 1**

*Text proposed by the Commission*

(1) The growth potential of e-commerce has not yet been fully exploited. The Digital Single Market Strategy for Europe<sup>29</sup> tackles in a holistic manner the major obstacles to the development of cross-border e-commerce in the Union in order to unleash this potential. Ensuring better access for consumers to digital content and facilitating businesses to supply digital content is necessary to boost the Union's digital economy and stimulate overall growth.

---

<sup>29</sup> COM (2015) 192 final.

*Amendment*

(1) The growth potential of e-commerce has not yet been fully exploited. The Digital Single Market Strategy for Europe<sup>29</sup> tackles in a holistic manner the major obstacles to the development of cross-border e-commerce in the Union in order to unleash this potential. Ensuring better access for consumers to digital content and facilitating businesses, **and especially SMEs**, to supply digital content is necessary to boost the Union's digital economy and stimulate overall growth.

---

<sup>29</sup> COM(2015) 192 final.

Or. ro

**Amendment 76**  
**Daniel Dalton, Vicky Ford**

**Proposal for a directive**  
**Recital 1**

*Text proposed by the Commission*

(1) The growth potential of e-commerce has not yet been fully **exploited**. The Digital Single Market Strategy for Europe<sup>29</sup> **tackles in a holistic manner** the major obstacles to the development of cross-border e-commerce in the Union in order to unleash this potential. Ensuring better access for consumers to digital content and facilitating businesses to supply digital content is **necessary to** boost the Union's digital economy and stimulate overall growth.

*Amendment*

(1) The growth potential of e-commerce has not yet been fully **realised**. The Digital Single Market Strategy for Europe<sup>29</sup> **had, as one of its core ambitions, tackling** the major obstacles to the development of cross-border e-commerce in the Union in order to unleash this potential. Ensuring better access for consumers to digital content and facilitating businesses to supply digital content is **essential to help** boost the Union's digital economy and stimulate overall growth.

<sup>29</sup> COM (2015) 192 final.

<sup>29</sup> COM (2015) 192 final.

Or. en

**Amendment 77**  
**Daniel Buda**

**Proposal for a directive**  
**Recital 1**

*Text proposed by the Commission*

(1) The growth potential of e-commerce has not yet been fully exploited. **The** Digital Single Market Strategy for Europe<sup>29</sup> tackles in a holistic manner the major obstacles to the development of cross-border e-commerce in the Union in order to unleash this potential. Ensuring better access for consumers to digital content and facilitating businesses to supply digital content is necessary to boost the Union's digital economy and stimulate overall growth.

---

<sup>29</sup> COM (2015) 192 final.

*Amendment*

(1) The growth potential of e-commerce has not yet been fully exploited. ***This Directive, incorporated into the*** Digital Single Market Strategy for Europe<sup>29</sup>, tackles in a holistic manner the major obstacles to the development of cross-border e-commerce in the Union in order to unleash this potential. Ensuring better access for consumers to digital content and ***digital services and*** facilitating businesses to supply digital content ***and digital services*** is necessary to boost the Union's digital economy ***and crossborder trade*** and stimulate overall growth.

---

<sup>29</sup> COM(2015) 192 final.

Or. ro

**Amendment 78**  
**Marco Zullo**

**Proposal for a directive**  
**Recital 1**

*Text proposed by the Commission*

(1) The growth potential of e-commerce has not yet been fully exploited. **The Digital Single Market Strategy for Europe<sup>29</sup> tackles in a holistic manner the** major obstacles to the development of

cross-border e-commerce in the Union in order to unleash this potential. Ensuring better access for consumers to digital content and facilitating businesses to supply digital content is necessary to boost the Union's digital economy and stimulate overall growth.

unleash this potential. Ensuring better access for consumers to digital content and **services and** facilitating businesses to supply digital content **and digital services** is necessary to boost the Union's digital economy and stimulate overall growth.

---

<sup>29</sup> *COM (2015) 192 final.*

Or. it

#### **Amendment 79**

**Evelyne Gebhardt, Christel Schaldemose, Lucy Anderson, Liisa Jaakonsaari, Virginie Rozière, Olga Sehnalová, Maria Grapini, Nicola Danti, Josef Weidenholzer, Anna Hedh, Marlene Mizzi, Marc Tarabella, Catherine Stihler, Evelyn Regner**

#### **Proposal for a directive Recital 1 a (new)**

*Text proposed by the Commission*

*Amendment*

***(1 a) Article 169(1) and point (a) of Article 169(2) of the Treaty on the Functioning of the European Union (TFEU) provide that the Union is to contribute to the attainment of a high level of consumer protection through measures adopted pursuant to Article 114 TFEU.***

Or. en

#### **Amendment 80**

**Evelyne Gebhardt, Lucy Anderson, Liisa Jaakonsaari, Christel Schaldemose, Maria Grapini, Virginie Rozière, Josef Weidenholzer, Nicola Danti, Anna Hedh, Marlene Mizzi, Marc Tarabella, Catherine Stihler, Evelyn Regner**

#### **Proposal for a directive Recital 1 b (new)**

*Text proposed by the Commission*

*Amendment*



*(1 b) Article 38 of the Charter of Fundamental Rights of the European Union provides that Union policies are to ensure a high level of consumer protection and Article 47 of the Charter provides that everyone whose rights under Union law are violated shall have the right to an effective remedy. Article 16 of the Charter recognises the freedom to run a business in accordance with Union and national law and practices.*

Or. en

**Amendment 81**  
**Mylène Troszczynski**

**Proposal for a directive**  
**Recital 2**

*Text proposed by the Commission*

*Amendment*

*(2) For the achievement of a genuine digital single market, the harmonisation of certain aspects concerning contracts for supply of digital content, taking as a base a high level of consumer protection, is necessary.*

*deleted*

Or. fr

*Justification*

*Harmonisation is not always the solution.*

**Amendment 82**  
**Evelyne Gebhardt, Lucy Anderson, Christel Schaldemose, Liisa Jaakonsaari, Marlene Mizzi, Maria Grapini, Nicola Danti, Josef Weidenholzer, Anna Hedh, Marc Tarabella, Catherine Stihler, Evelyn Regner**

**Proposal for a directive**  
**Recital 2**

*Text proposed by the Commission*

*Amendment*

(2) For the achievement of a genuine digital single market, the harmonisation of certain aspects concerning contracts for supply of digital content, ***taking as a base a high level of consumer protection***, is necessary.

(2) For the achievement of a genuine digital single market, the harmonisation of certain aspects concerning contracts for supply of digital content ***and digital services as a common platform for all Member States while recognising Member States' competences within the Union***, is necessary.

Or. en

**Amendment 83**  
**Daniel Buda**

**Proposal for a directive**  
**Recital 2**

*Text proposed by the Commission*

(2) For the achievement of a genuine digital single market, the harmonisation of certain aspects concerning contracts for supply of digital content, taking as a base a high level of consumer protection, ***is necessary***.

*Amendment*

(2) For the achievement of a genuine digital single market, the harmonisation of certain aspects concerning contracts for ***the*** supply of digital content ***and digital services is necessary***, taking as a base a high level of consumer protection ***and a business-friendly environment and guaranteeing legal certainty and avoiding unnecessary costs***.

Or. ro

**Amendment 84**  
**Daniel Dalton, Vicky Ford, Anneleen Van Bossuyt**

**Proposal for a directive**  
**Recital 2**

*Text proposed by the Commission*

(2) For the achievement of a genuine digital single market, the harmonisation of certain aspects concerning contracts for supply of digital content, taking as a base a

*Amendment*

(2) For the achievement of a genuine digital single market, the harmonisation of certain aspects concerning contracts for supply of digital content, taking as a base a high level of consumer protection ***and a***

high level of consumer protection, *is necessary*.

*pro-innovation future-proof approach, is to be welcomed.*

Or. en

## **Amendment 85**

**Notis Marias**

### **Proposal for a directive**

#### **Recital 2**

*Text proposed by the Commission*

(2) For the achievement of a genuine digital single market, the harmonisation of certain aspects concerning contracts for supply of digital content, taking as a base a high level of consumer protection, is necessary.

*Amendment*

(2) For the achievement of a genuine digital single market, the harmonisation of certain aspects concerning contracts for supply of digital content, taking as a base a high level of consumer protection, is necessary, *as well as legal certainty for digital content providers*.

Or. el

## **Amendment 86**

**Jean-Marie Cavada**

### **Proposal for a directive**

#### **Recital 2**

*Text proposed by the Commission*

(2) For the achievement of a genuine digital single market, the harmonisation of certain aspects concerning contracts for supply of digital content, taking as a base a high level of *consumer protection*, is necessary.

*Amendment*

(2) For the achievement of a genuine digital single market, the harmonisation of certain aspects concerning contracts for supply of digital content, taking as a base a high level of *protection for consumers and all parties linked to the contract, including rights-holders and online service providers*, is necessary.

Or. fr

## **Amendment 87**

**Antanas Guoga**

**Proposal for a directive**

**Recital 2**

*Text proposed by the Commission*

(2) For the achievement of a genuine digital single market, the harmonisation of certain aspects concerning contracts for supply of digital content, taking as a base a high level of consumer protection, is necessary.

*Amendment*

(2) For the achievement of a genuine digital single market, the harmonisation of certain aspects concerning contracts for supply of digital content, taking as a base a high level of consumer protection, is necessary, ***as well as legal certainty for digital content suppliers.***

Or. en

**Amendment 88**

**Maria Grapini**

**Proposal for a directive**

**Recital 2**

*Text proposed by the Commission*

(2) For the achievement of a genuine digital single market, the harmonisation of certain aspects concerning contracts for supply of digital content, taking as a base a high level of consumer protection, ***is necessary.***

*Amendment*

(2) For the achievement of a genuine digital single market, the harmonisation of certain aspects concerning contracts for supply of digital content, taking as a base a high level of consumer protection ***and the need to develop crossborder trade.***

Or. ro

**Amendment 89**

**Marco Zullo**

**Proposal for a directive**

**Recital 2**

*Text proposed by the Commission*

(2) For the achievement of a genuine digital single market, the harmonisation of certain aspects concerning contracts for supply of digital content, taking as a base a

*Amendment*

(2) For the achievement of a genuine digital single market, the harmonisation of certain aspects concerning contracts for supply of digital content ***or services,*** taking

high level of consumer protection, is necessary.

as a base a high level of consumer protection, is necessary.

Or. it

**Amendment 90**  
**Jiří Pospíšil**

**Proposal for a directive**  
**Recital 2**

*Text proposed by the Commission*

(2) For the achievement of a genuine digital single market, the harmonisation of certain aspects concerning contracts for supply of digital content, taking as a base a high level of consumer protection, is necessary.

*Amendment*

(2) For the achievement of a genuine digital single market, the harmonisation of certain aspects concerning contracts for supply of digital content, taking as a base a **very** high level of consumer protection, is necessary.

Or. cs

**Amendment 91**  
**Eva Maydell, Andreas Schwab**

**Proposal for a directive**  
**Recital 2 a (new)**

*Text proposed by the Commission*

*Amendment*

***(2 a) Consumers are not confident when contracting cross-border and especially online. One of the major factors for this lack of confidence is uncertainty about their key contractual rights and the lack of a clear contractual framework for digital content and digital services. Many consumers experience problems related to the quality of, or access to, digital content or digital services. For instance, they receive wrong or faulty digital content, or they are not able to access the digital service in question. As a result, consumers suffer financial and non-financial detriment.***

**Amendment 92**  
**Victor Negrescu**

**Proposal for a directive**  
**Recital 2 a (new)**

*Text proposed by the Commission*

*Amendment*

**(2 a) This Directive should be supported by an extensive public consultation process and a transparent communications campaign through which consumers and suppliers of digital content can be informed about the benefits that this new legislation will bring forward.**

Or. en

**Amendment 93**  
**Mylène Troszczynski**

**Proposal for a directive**  
**Recital 3**

*Text proposed by the Commission*

*Amendment*

**(3) Differences in national mandatory consumer contract law rules and a lack of clear contract law rules are among the key obstacles which hinder the development of the supply of digital content, as very few tailor-made rules exist at Union level. Businesses face additional costs stemming from differences in national mandatory consumer contract law rules and legal uncertainty when selling digital content across borders. Businesses also face costs when adapting their contracts to specific mandatory rules for the supply of digital content already emerging in several Member States, creating differences in scope and content between specific national rules governing these contracts.**

**(3) Differences in national consumer contract law rules may create a challenge for the development of the international supply of digital content; a trade challenge and a legal challenge, which are not insurmountable and which are part and parcel of international trade. International trade does not preclude partnerships and cooperation between different countries to promote trade between two chosen markets, and thereby encouraging trade and reducing the additional costs borne by enterprises.**

*In those Member States where there are not yet specific rules for the supply of digital content, traders willing to sell cross-border face uncertainty, as they will often not know which rules apply to digital content in the Member State they want to export to, nor the content of those rules and whether they are mandatory.*

Or. fr

#### *Justification*

*Recital 3 gives a description which is too negative and not sufficiently pragmatic with regard to the constraints of international trade. It is clearly to everyone's advantage when two markets open up to each other, but that opening-up should be neither forced nor unnatural. It should be negotiated and the consequences should be anticipated so as not to go against the interests of one's own compatriots, as is unfortunately the case today.*

#### **Amendment 94**

**Evelyne Gebhardt, Lucy Anderson, Christel Schaldemose, Liisa Jaakonsaari, Kerstin Westphal, Josef Weidenholzer, Anna Hedh, Marc Tarabella, Catherine Stihler, Evelyn Regner**

#### **Proposal for a directive**

##### **Recital 3**

#### *Text proposed by the Commission*

(3) Differences in national mandatory consumer contract law rules ***and a lack of clear contract law rules are among the key obstacles which hinder the development of the supply of digital content, as very few tailor-made rules exist at Union level. Businesses face additional costs stemming from differences in national mandatory consumer contract law rules and legal uncertainty when selling digital content across borders. Businesses also face costs when adapting their contracts to specific mandatory rules for the supply of digital content already emerging in several Member States, creating differences in scope and content between specific national rules governing these contracts.***

#### *Amendment*

(3) Differences in national mandatory consumer contract law rules ***are an essential pre-condition for a learning process within the European Union, whereas a maximum harmonisation approach would bear the risk of making contractual law non-responsive to swift technological or behavioural developments and changes. This is because maximum harmonisation would prevent Member States from adopting more stringent rules in their national laws and thus prevent them from quickly and adequately responding to new business practices detrimental to consumers. Suppliers willing to supply digital content and digital services cross-border would benefit highly from the European Union's***

*In those Member States where there are not yet specific rules for the supply of digital content, traders willing to sell cross-border face uncertainty, as they will often not know which rules apply to digital content in the Member State they want to export to, nor the content of those rules and whether they are mandatory.*

*harmonisation efforts, despite a minimum harmonisation approach, as only very few Member States possess specific rules on the supply of digital content and digital services. This gives the Union the opportunity to harmonise this area of law and set common (high) standards, while acknowledging that Member States may want to maintain certain national provisions. Business-to-business transactions are regulated differently in each Member State and should remain outside the scope of this Directive ;*

Or. en

**Amendment 95**  
**Eva Maydell**

**Proposal for a directive**  
**Recital 3**

*Text proposed by the Commission*

(3) Differences in national mandatory consumer contract law rules and a lack of clear contract law rules are among the key obstacles which hinder the development of the supply of digital content, as very few tailor-made rules exist at Union level. Businesses face additional costs stemming from differences in national mandatory consumer contract law rules and legal uncertainty when **selling** digital content across borders. Businesses also face costs when adapting their contracts to specific mandatory rules for the supply of digital content **are already emerging in several** Member States, **creating** differences in scope and content between specific national rules governing these contracts. In those Member States where there are not yet specific rules for the supply of digital content, **traders** willing to **sell** cross-border face uncertainty, as they will often not know which rules apply to digital content in the Member State they want to **export** to,

*Amendment*

(3) Differences in national mandatory consumer contract law rules and a lack of clear contract law rules are among the key obstacles which hinder the development of the supply of digital content **or digital services**, as very few tailor-made rules exist at Union level. Businesses face additional costs stemming from differences in national mandatory consumer contract law rules and legal uncertainty when **supplying** digital content **or digital services** across borders. Businesses also face costs when adapting their contracts to specific mandatory rules for the supply of digital content **or digital services of** Member States **where such rules already exist. The emergence of such rules results in** differences in scope and content between specific national rules governing these contracts. In those Member States where there are not yet specific rules for the supply of digital content **or digital services**, **suppliers** willing to **supply** cross-border



nor the content of those rules and whether they are mandatory.

face uncertainty, as they will often not know which rules apply to digital content **or digital services** in the Member State they want to **supply** to, nor the content of those rules and whether they are mandatory.

Or. en

## Amendment 96

Daniel Buda

### Proposal for a directive

#### Recital 3

*Text proposed by the Commission*

(3) Differences in national mandatory consumer contract law rules and a lack of clear contract law rules are among the key obstacles which hinder the development of the supply of digital content, as very few tailor-made rules exist at Union level. Businesses face additional costs stemming from differences in national mandatory consumer contract law rules and legal uncertainty when **selling** digital content across borders. Businesses also face costs when adapting their contracts to specific mandatory rules for the supply of digital content **are already emerging in several Member States**, creating differences in scope and content between specific national rules governing these contracts. In those Member States where there are not yet specific rules for the supply of digital content, traders willing to **sell cross-border** face uncertainty, as they will often not know which rules apply to digital content in the Member **State** they want to **export to**, nor the content of those rules and whether they are mandatory.

*Amendment*

(3) Differences in national mandatory consumer contract law rules and a lack of clear **and uniform** contract law rules are among the key obstacles which hinder the development of the supply of digital content **and digital services**, as very few tailor-made rules exist at Union level. Businesses face additional costs stemming from differences in national mandatory consumer contract law rules and legal uncertainty when **supplying** digital content **and digital services** across borders. Businesses also face costs when adapting their contracts to specific mandatory rules for the supply of digital content **in Member States in which those rules exist**, creating differences in scope and content between specific national rules governing these contracts. In those Member States where there are not yet specific rules for the supply of digital content **or digital services**, traders willing to **make crossborder sales** face uncertainty **and a lack of legal certainty**, as they will often not know which rules apply to digital content **or digital services** in the Member **States to which** they want to **supply their digital content and digital services**, nor the content of those rules and whether they are mandatory.

**Amendment 97****Marco Zullo****Proposal for a directive****Recital 3***Text proposed by the Commission*

(3) Differences in national mandatory consumer contract law rules and a lack of clear contract law rules are among the key obstacles which hinder the development of the supply of digital content, as very few tailor-made rules exist at Union level. Businesses face additional costs stemming from differences in national mandatory consumer contract law rules and legal uncertainty when **selling** digital content across borders. Businesses also face costs when adapting their contracts to specific mandatory rules for the supply of digital content are already emerging in several Member States, creating differences in scope and content between specific national rules governing these contracts. In those Member States where there are not yet specific rules for the supply of digital content, traders willing to **sell** cross-border face uncertainty, as they will often not know which rules apply to digital content in the Member State they want to **export to**, nor the content of those rules and whether they are mandatory.

*Amendment*

(3) Differences in national mandatory consumer contract law rules and a lack of clear contract law rules are among the key obstacles which hinder the development of the supply of digital content **and digital services**, as very few tailor-made rules exist at Union level. Businesses face additional costs stemming from differences in national mandatory consumer contract law rules and legal uncertainty when **supplying** digital content **or digital services** across borders. Businesses also face costs when adapting their contracts to specific mandatory rules for the supply of digital content **or digital services that** are already emerging in several Member States, creating differences in scope and content between specific national rules governing these contracts. In those Member States where there are not yet specific rules for the supply of digital content **or digital services**, traders willing to **supply such content or services** cross-border face uncertainty, as they will often not know which rules apply to **the** digital content **or digital service** in the Member State **in which** they want to **supply this**, nor the content of those rules and whether they are mandatory.

Or. it

**Amendment 98****Daniel Dalton, Vicky Ford**

**Proposal for a directive**  
**Recital 3**

*Text proposed by the Commission*

(3) Differences in national mandatory consumer contract law rules and a lack of clear contract law rules are among the key obstacles which hinder the development of the supply of digital content, as very few tailor-made rules exist at Union level. Businesses face additional costs stemming from differences in national mandatory consumer contract law rules and legal uncertainty when selling digital content across borders. Businesses also face costs when adapting their contracts to specific mandatory rules for the supply of digital content are already emerging in several Member States, creating differences in scope and content between specific national rules governing these contracts. In those Member States where there are not yet specific rules for the supply of digital content, traders willing to sell cross-border face uncertainty, as they will often not know which rules apply to digital content in the Member State they want to export to, nor the content of those rules and whether they are mandatory.

*Amendment*

(3) Differences in national mandatory consumer contract law rules and a lack of clear contract law rules are among the key obstacles which hinder the development of the supply of digital content, as very few tailor-made rules exist at Union level. Businesses face additional costs stemming from differences in national mandatory consumer contract law rules and legal uncertainty when selling digital content across borders. Businesses also face costs when adapting their contracts to specific mandatory rules for the supply of digital content ***that*** are already emerging ***or have been successfully implemented*** in several Member States, creating differences in scope and content between specific national rules governing these contracts. In those Member States where there are not yet specific rules for the supply of digital content, traders willing to sell cross-border face uncertainty, as they will often not know which rules apply to digital content in the Member State they want to export to, nor the content of those rules and whether they are mandatory.

Or. en

**Amendment 99**  
**Notis Marias**

**Proposal for a directive**  
**Recital 3**

*Text proposed by the Commission*

(3) Differences in national mandatory consumer contract law rules and a lack of clear contract law rules are among the key obstacles which hinder the development of the supply of digital content, as very few

*Amendment*

(3) Differences in national mandatory consumer contract law rules and a lack of clear contract law rules are among the key obstacles which hinder the development of the supply of digital content ***and cross-***

tailor-made rules exist at Union level. Businesses face additional costs stemming from differences in national mandatory consumer contract law rules and legal uncertainty when selling digital content across borders. Businesses also face costs when adapting their contracts to specific mandatory rules for the supply of digital content are already emerging in several Member States, creating differences in scope and content between specific national rules governing these contracts. In those Member States where there are not yet specific rules for the supply of digital content, traders willing to sell cross-border face uncertainty, as they will often not know which rules apply to digital content in the Member State they want to export to, nor the content of those rules and whether they are mandatory.

***border sales***, as very few tailor-made rules exist at Union level. Businesses face additional costs stemming from differences in national mandatory consumer contract law rules and legal uncertainty when selling digital content across borders. Businesses also face costs when adapting their contracts to specific mandatory rules for the supply of digital content ***that*** are already emerging in several Member States, creating differences in scope and content between specific national rules governing these contracts. In those Member States where there are not yet specific rules for the supply of digital content, traders willing to sell cross-border face uncertainty, as they will often not know which rules apply to digital content in the Member State they want to export to, nor the content of those rules and whether they are mandatory.

Or. el

## **Amendment 100**

### **Maria Grapini**

#### **Proposal for a directive**

#### **Recital 3**

*Text proposed by the Commission*

**(3)** Differences in national mandatory consumer contract law rules and a lack of clear contract law rules are among the key obstacles which hinder the development of the supply of digital content, as very few tailor-made rules exist at Union level. Businesses face additional costs stemming from differences in national mandatory consumer contract law rules and legal uncertainty when selling digital content across borders. Businesses also face costs when adapting their contracts to specific mandatory rules for the supply of digital content are already emerging in several Member States, creating differences in

*Amendment*

**(3)** Differences in national mandatory consumer contract law rules and a lack of clear contract law rules are among the key obstacles which hinder the development of the supply of digital content, as very few tailor-made rules exist at Union level. Businesses, ***and especially SMEs***, face additional costs stemming from differences in national mandatory consumer contract law rules and legal uncertainty when selling digital content across borders. Businesses also face costs when adapting their contracts to specific mandatory rules for the supply of digital content ***that*** are already emerging in several Member

scope and content between specific national rules governing these contracts. In those Member States where there are not yet specific rules for the supply of digital content, traders willing to sell cross-border face uncertainty, as they will often not know which rules apply to digital content in the Member State they want to export to, nor the content of those rules and whether they are mandatory.

States, creating differences in scope and content between specific national rules governing these contracts. In those Member States where there are not yet specific rules for the supply of digital content, traders willing to sell cross-border face uncertainty, as they will often not know which rules apply to digital content in the Member State they want to export to, nor the content of those rules and whether they are mandatory.

Or. ro

## **Amendment 101**

### **Jiří Pospíšil**

#### **Proposal for a directive**

#### **Recital 3**

##### *Text proposed by the Commission*

(3) Differences in national mandatory consumer contract law rules and a lack of clear contract law rules are among the **key** obstacles which hinder the development of the supply of digital content, as very few tailor-made rules exist at Union level. Businesses face additional costs stemming from differences in national mandatory consumer contract law rules and legal uncertainty when selling digital content across borders. Businesses also face costs when adapting their contracts to specific mandatory rules for the supply of digital content are already emerging in several Member States, creating differences in scope and content between specific national rules governing these contracts. In those Member States where there are not yet specific rules for the supply of digital content, traders **willing to sell** cross-border face uncertainty, as they will often not know which rules apply to digital content in the Member State they want to export to, nor the content of those rules and whether they are mandatory.

##### *Amendment*

(3) Differences in national mandatory consumer contract law rules and a lack of clear contract law rules are among the **major** obstacles which hinder the development of the supply of digital content, as very few tailor-made rules exist at Union level. Businesses face additional costs stemming from differences in national mandatory consumer contract law rules and legal uncertainty when selling digital content across borders. Businesses also face costs when adapting their contracts to specific mandatory rules for the supply of digital content are already emerging in several Member States, creating differences in scope and content between specific national rules governing these contracts. In those Member States where there are not yet specific rules for the supply of digital content, traders **selling** cross-border face uncertainty, as they will often not know which rules apply to digital content in the Member State they want to export to, nor the content of those rules and whether they are mandatory.

**Amendment 102**

**Eva Maydell**

**Proposal for a directive**

**Recital 4**

*Text proposed by the Commission*

*Amendment*

**(4) Consumers are not confident when buying cross border and especially online. One of the major factors for this lack of confidence is uncertainty about their key contractual rights and the lack of a clear contractual framework for digital content. Many consumers of digital content experience problems related to the quality of, or access to, digital content. For instance, they receive wrong or faulty digital content, or they are not able to access the digital content in question. As a result, consumers suffer financial and non-financial detriment.** **deleted**

Or. en

**Amendment 103**

**Mylène Troszczynski**

**Proposal for a directive**

**Recital 4**

*Text proposed by the Commission*

*Amendment*

**(4) Consumers are not confident when buying cross border and especially online. One of the major factors for this lack of confidence is uncertainty about their key contractual rights and the lack of a clear contractual framework for digital content. Many consumers of digital content experience problems related to the quality of, or access to, digital content. For instance, they receive wrong or faulty digital content, or they are not able to** **deleted**

*access the digital content in question. As a result, consumers suffer financial and non-financial detriment.*

Or. fr

#### **Amendment 104**

**Daniel Buda**

#### **Proposal for a directive**

##### **Recital 4**

*Text proposed by the Commission*

(4) Consumers are not confident when buying cross border and especially online. One of the major factors for this lack of confidence is uncertainty about their key contractual rights and the lack of a clear contractual framework for digital content. Many consumers of digital content experience problems related to the quality of, or access to, digital content. For instance, they receive wrong or faulty digital content, or they are not able to access the digital content in question. As a result, consumers suffer financial and non-financial detriment.

*Amendment*

(4) ***There is very low consumer confidence in crossborder electronic trade (especially online).*** Consumers are not confident when buying cross border and especially online. One of the major factors for this lack of confidence is uncertainty about their key contractual rights and the lack of a clear ***and uniform*** contractual framework for digital content ***and digital services***. Many consumers of digital content ***and digital services*** experience problems related to the quality of, or access to, digital content ***and digital services***. For instance, they receive wrong or faulty digital content, or they are not able to access the digital content ***or digital service*** in question. As a result, consumers suffer financial and non-financial detriment.

Or. ro

#### **Amendment 105**

**Jiří Pospíšil**

#### **Proposal for a directive**

##### **Recital 4**

*Text proposed by the Commission*

(4) Consumers are ***not*** confident when buying cross border ***and especially*** online.

*Amendment*

(4) Consumers are ***generally less*** confident when buying cross border,

One of the major factors for this lack of confidence is uncertainty about their key contractual rights and the lack of a clear contractual framework for digital content. Many consumers of digital content experience problems related to the quality of, or access to, digital content. For instance, they receive wrong or faulty digital content, or they are not able to access the digital content in question. As a result, consumers suffer financial and non-financial detriment.

*especially when buying* online. One of the major factors for this lack of confidence is uncertainty about their key contractual rights and the lack of a clear *and uniform* contractual framework for digital content. Many consumers of digital content experience problems related to the quality of, or access to, digital content. For instance, they receive wrong or faulty digital content, or they are not able to access the digital content in question. As a result, consumers suffer financial and non-financial detriment.

Or. cs

#### **Amendment 106** **Marco Zullo**

##### **Proposal for a directive** **Recital 4**

###### *Text proposed by the Commission*

(4) Consumers are not confident when buying cross border and especially online. One of the major factors for this lack of confidence is uncertainty about their key contractual rights and the lack of a clear contractual framework for digital content. Many consumers of digital content experience problems related to the quality of, or access to, digital content. For instance, they receive wrong or faulty digital content, or they are not able to access the digital content in question. As a result, consumers suffer financial and non-financial detriment.

###### *Amendment*

(4) Consumers are not confident when buying cross border and especially online. One of the major factors for this lack of confidence is uncertainty about their key contractual rights and the lack of a clear contractual framework for digital content *and digital services*. Many consumers of digital content *or digital services* experience problems related to the quality of, or access to, digital content *or digital services*. For instance, they receive wrong or faulty digital content *or digital services*, or they are not able to access the digital content *or digital services* in question. As a result, consumers suffer financial and non-financial detriment.

Or. it

#### **Amendment 107** **Virginie Rozière**



**Proposal for a directive**  
**Recital 4**

*Text proposed by the Commission*

(4) Consumers are not confident when **buying** cross border and especially online. One of the major factors for this lack of confidence is uncertainty about their key contractual rights and the lack of a clear contractual framework for digital content. Many consumers of digital content experience problems related to the quality of, or access to, digital content. For instance, they receive wrong or faulty digital content, or they are not able to access **the digital content in question**. As a result, consumers suffer financial and non-financial detriment.

*Amendment*

(4) Consumers are not confident when **contracting** cross border and especially online. One of the major factors for this lack of confidence is uncertainty about their key contractual rights and the lack of a clear contractual framework for digital content. Many consumers of digital content **or service** experience problems related to the quality of, or access to, digital content **or service**. For instance, they receive wrong or faulty digital content, or they are not able to access **a digital service**. As a result, consumers **may** suffer financial and non-financial detriment.

Or. fr

**Amendment 108**  
**Daniel Dalton, Vicky Ford, Anneleen Van Bossuyt**

**Proposal for a directive**  
**Recital 4**

*Text proposed by the Commission*

(4) Consumers are not confident when buying cross border and especially online. One of the major factors for this lack of confidence is uncertainty about their key contractual rights and the lack of a clear contractual framework for digital content. Many consumers of digital content experience problems related to the quality of, or access to, digital content. For instance, they receive wrong or faulty digital content, or they are not able to access the digital content in question. As a result, consumers suffer financial and non-financial detriment.

*Amendment*

(4) Consumers are not **always** confident when buying cross border and especially online. One of the major factors for this lack of confidence is uncertainty about their key contractual rights and the lack of a clear contractual framework for digital content. Many consumers of digital content experience problems related to the quality of, or access to, digital content. For instance, they receive wrong or faulty digital content, or they are not able to access the digital content in question. As a result, consumers suffer financial and non-financial detriment.

Or. en

**Amendment 109**

**Mylène Troszczynski**

**Proposal for a directive**

**Recital 5**

*Text proposed by the Commission*

*Amendment*

(5) *In order to remedy these problems, both businesses and consumers should be able to rely on fully harmonised rules for the supply of digital content setting out Union-wide contractual rights which are essential for this type of transactions.*

*deleted*

Or. fr

**Amendment 110**

**Evelyn Gebhardt, Lucy Anderson, Liisa Jaakonsaari, Christel Schaldemose, Olga Sehnalová, Maria Grapini, Josef Weidenholzer, Anna Hedh, Marc Tarabella, Catherine Stihler, Evelyn Regner**

**Proposal for a directive**

**Recital 5**

*Text proposed by the Commission*

*Amendment*

(5) In order to remedy these problems, both businesses and consumers should be able to rely on *fully harmonised rules* for the supply of digital content setting out Union-wide contractual rights which *are essential for this type of transactions*.

(5) In order to remedy these problems, both businesses and consumers should be able to rely on *high common standards* for the supply of digital content *and digital services* setting out Union-wide contractual rights which *create an equal playing field for various actors*.

Or. en

**Amendment 111**

**Julia Reda**

**Proposal for a directive**

**Recital 5**

*Text proposed by the Commission*

(5) In order to remedy these problems, both businesses and consumers should be able to rely on **fully** harmonised rules for the supply of digital content setting out Union-wide contractual rights which are essential for this type of transactions.

*Amendment*

(5) In order to remedy these problems, both businesses and consumers should be able to rely on harmonised rules for the supply of digital content setting out Union-wide contractual rights which are essential for this type of transactions.

Or. en

**Amendment 112**

**Marlene Mizzi**

**Proposal for a directive**

**Recital 5**

*Text proposed by the Commission*

(5) In order to remedy these problems, both businesses and consumers should be able to rely on fully harmonised rules for the supply of digital content setting out Union-wide contractual rights which are essential for this type of transactions.

*Amendment*

(5) In order to remedy these problems, both businesses and consumers should be able to rely on fully harmonised rules for the supply of digital content ***and digital services, provided that a high level of consumer protection is guaranteed, by*** setting out Union-wide contractual rights which are essential for this type of transactions.

Or. en

**Amendment 113**

**Daniel Dalton, Vicky Ford, Anneleen Van Bossuyt**

**Proposal for a directive**

**Recital 5**

*Text proposed by the Commission*

(5) In order to remedy these problems, both businesses and consumers should be able to rely on fully harmonised rules for the supply of digital content setting out Union-wide contractual rights which are essential for this type of transactions.

*Amendment*

(5) In order to remedy these problems, both businesses and consumers should be able to rely on fully harmonised rules, ***learnt from best practices in Member States,*** for the supply of digital content setting out Union-wide contractual rights

which are essential for this type of transactions.

Or. en

**Amendment 114**  
**Daniel Buda**

**Proposal for a directive**  
**Recital 5**

*Text proposed by the Commission*

(5) In order to remedy these problems, both businesses and consumers should be able to rely on fully harmonised rules for the supply of digital content setting out Union-wide contractual rights which are essential for this type of transactions.

*Amendment*

(5) In order to remedy these problems, both businesses and consumers should be able to rely on fully harmonised rules for the supply of digital content ***and digital services***, setting out Union-wide contractual rights which are essential for this type of transactions ***and guaranteeing a high and uniform level of consumer protection while limiting unnecessary additional costs to businesses.***

Or. ro

**Amendment 115**  
**Victor Negrescu**

**Proposal for a directive**  
**Recital 5**

*Text proposed by the Commission*

(5) In order to remedy these problems, both businesses and consumers should be able to rely on fully harmonised rules for the supply of digital content setting out Union-wide contractual rights which are essential for this type of transactions.

*Amendment*

(5) In order to remedy these problems, both businesses and consumers should be able to rely on fully harmonised rules for the supply of digital content setting out Union-wide contractual rights which are essential for this type of transactions. ***Information for consumers regarding the tolling regime applied to the purchased digital product or service would also help to strengthen consumer trust in e-commerce.***

**Amendment 116**

**Virginie Rozière**

**Proposal for a directive**

**Recital 5**

*Text proposed by the Commission*

(5) In order to remedy these problems, both businesses and consumers should be able to rely on fully harmonised rules for the supply of digital content setting out Union-wide contractual rights which are essential for this type of transactions.

*Amendment*

(5) In order to remedy these problems, both businesses and consumers should be able to rely on fully harmonised rules for the supply of digital content ***or service*** setting out Union-wide contractual rights which are essential for this type of transactions.

Or. fr

**Amendment 117**

**Marco Zullo**

**Proposal for a directive**

**Recital 5**

*Text proposed by the Commission*

(5) In order to remedy these problems, both businesses and consumers should be able to rely on fully harmonised rules for the supply of digital content setting out Union-wide contractual rights which are essential for this type of transactions.

*Amendment*

(5) In order to remedy these problems, both businesses and consumers should be able to rely on fully harmonised rules for the supply of digital content ***or digital services*** setting out Union-wide contractual rights which are essential for this type of transactions.

Or. it

**Amendment 118**

**Eva Maydell**

**Proposal for a directive**

**Recital 5**

*Text proposed by the Commission*

(5) In order to remedy these problems, both ***businesses and consumers*** should be able to rely on fully harmonised rules for the supply of digital content setting out Union-wide contractual rights which are essential for this type of transactions.

*Amendment*

(5) In order to remedy these problems, both ***consumers and businesses*** should be able to rely on fully harmonised rules for the supply of digital content setting out Union-wide contractual rights which are essential for this type of transactions.

Or. en

**Amendment 119**

**Mylène Troszczynski**

**Proposal for a directive**

**Recital 6**

*Text proposed by the Commission*

***(6) Fully harmonised consumer contract law rules in all Member States will make it easier for businesses to offer digital content cross-border. They will have a stable contract law environment when selling online and otherwise at a distance to other Member States. Fully harmonised rules specific for digital content throughout the EU will remove the complexity caused by the different national rules that currently apply to contracts for the supply of digital content. They will also prevent legal fragmentation that otherwise would arise from new national legislations regulating specifically digital content.***

*Amendment*

***deleted***

Or. fr

*Justification*

*The rapporteurs should ask all Europeans to speak German. That would be even simpler.*

**Amendment 120**

Evelyn Gebhardt, Lucy Anderson, Christel Schaldemose, Liisa Jaakonsaari, Kerstin Westphal, Olga Sehnalová, Maria Grapini, Josef Weidenholzer, Anna Hedh, Marc Tarabella, Catherine Stihler, Evelyn Regner

**Proposal for a directive**  
**Recital 6**

*Text proposed by the Commission*

(6) *Fully harmonised consumer contract law rules in all Member States will make it easier for businesses to offer digital content cross-border. They will have a stable contract law environment when selling online and otherwise at a distance to other Member States. Fully harmonised rules specific for digital content throughout the EU will remove the complexity caused by the different national rules that currently apply to contracts for the supply of digital content. They will also prevent legal fragmentation that otherwise would arise from new national legislations regulating specifically digital content.*

*Amendment*

(6) *Minimum standards on a high level of consumer protection will prevent obstructions of the four freedoms in the area of the supply of digital content and digital services while leaving room for national deviations in specific matters and without endangering the harmony of national contractual law.*

Or. en

**Amendment 121**  
**Julia Reda**

**Proposal for a directive**  
**Recital 6**

*Text proposed by the Commission*

(6) *Fully harmonised* consumer contract law rules in all Member States will make it easier for businesses to offer digital content cross-border. They will have a stable contract law environment when selling online and otherwise at a distance to other Member States. *Fully harmonised* rules specific for digital content throughout the EU will remove the complexity caused by the different national rules that currently apply to contracts for the supply of digital

*Amendment*

(6) Harmonised consumer contract law rules in all Member States will make it easier for businesses to offer digital content cross-border. They will have a stable contract law environment when selling online and otherwise at a distance to other Member States. Harmonised rules specific for digital content throughout the EU will remove the complexity caused by the different national rules that currently apply to contracts for the supply of digital

content. They will also prevent legal fragmentation that otherwise would arise from new national legislations regulating specifically digital content.

content. They will also prevent legal fragmentation that otherwise would arise from new national legislations regulating specifically digital content.

Or. en

## **Amendment 122**

**Axel Voss, Eva Maydell**

### **Proposal for a directive**

#### **Recital 6**

*Text proposed by the Commission*

(6) ***Fully harmonised consumer contract law rules in all Member States will make it easier for businesses to offer digital content cross-border. They will have a stable contract law environment when selling online and otherwise at a distance to other Member States. Fully harmonised rules specific for digital content throughout the EU will remove the complexity caused by the different national rules that currently apply to contracts for the supply of digital content. They will also prevent legal fragmentation that otherwise would arise from new national legislations regulating specifically digital content.***

*Amendment*

(6) ***Consumers will benefit from fully harmonised rights for digital content or digital services at a high level of protection. They will have clear rights when they receive or access digital content or digital services in within the EU. This will increase their confidence in accessing digital content or digital services and contribute to reducing the detriment consumers currently suffer, since there will be a set of clear rights that will enable them to address problems they face with digital content or digital services.***

Or. en

## **Amendment 123**

**Notis Marias**

### **Proposal for a directive**

#### **Recital 6**

*Text proposed by the Commission*

(6) Fully harmonised consumer contract law rules in all Member States will make it easier for businesses to offer digital

*Amendment*

(6) Fully harmonised consumer contract law rules in all Member States will make it easier for businesses to offer digital



content cross-border. They will have a stable contract law environment when selling online and otherwise at a distance to other Member States. Fully harmonised rules specific for digital content throughout the **EU** will remove the complexity caused by the different national rules that currently apply to contracts for the supply of digital content. They will also prevent legal fragmentation that otherwise would arise from new national legislations regulating specifically digital content.

content **and effect digital sales** cross-border. They will have a stable contract law environment when selling online and otherwise at a distance to other Member States. Fully harmonised rules specific for digital content throughout the **Union** will remove the complexity caused by the different national rules that currently apply to contracts for the supply of digital content. They will also prevent legal fragmentation that otherwise would arise from new national legislations regulating specifically digital content.

Or. el

## **Amendment 124**

### **Daniel Buda**

#### **Proposal for a directive**

#### **Recital 6**

##### *Text proposed by the Commission*

**(6)** Fully harmonised consumer contract law rules in all Member States will make it easier for businesses to offer digital content cross-border. They will have a stable contract law environment when selling online and otherwise at a distance to other Member States. Fully harmonised rules specific for digital content throughout the EU will remove the complexity caused by the different national rules that currently apply to contracts for the supply of digital content. They will also prevent legal fragmentation that otherwise would arise from new national legislations regulating specifically digital content.

##### *Amendment*

**(6)** Fully harmonised consumer contract law rules in all Member States will make it easier for businesses to offer digital content **and digital services** cross-border. They will have a stable **and uniform** contract law environment when selling online and otherwise at a distance to other Member States. Fully harmonised rules specific for digital content **and digital services** throughout the EU will remove the complexity caused by the different national rules that currently apply to contracts for the supply of digital content **and/or digital services**. They will also prevent legal fragmentation that otherwise would arise from new national legislations regulating specifically digital content **and digital services**.

Or. ro

## Amendment 125

Virginie Rozière

### Proposal for a directive

#### Recital 6

*Text proposed by the Commission*

(6) Fully harmonised consumer contract law rules in all Member States will make it easier for businesses to offer digital content ***cross-border. They will have a stable contract law environment when selling online and otherwise at a distance to other Member States.*** Fully harmonised rules specific for digital content throughout the EU will remove the complexity caused by the different national rules that currently apply to contracts for the supply of digital content. They will also prevent legal fragmentation that otherwise would arise from new national legislations regulating specifically digital content.

*Amendment*

(6) Fully harmonised consumer contract law rules in all Member States will make it easier for businesses to offer digital content ***or service cross-border.*** Fully harmonised rules specific for digital content ***or service*** throughout the EU will remove the complexity caused by the different national rules that currently apply to contracts for the supply of digital content ***or service.*** They will also prevent legal fragmentation that otherwise would arise from new national legislations regulating specifically digital content ***or service.***

Or. fr

## Amendment 126

Marco Zullo

### Proposal for a directive

#### Recital 6

*Text proposed by the Commission*

(6) Fully harmonised consumer contract law rules in all Member States will make it easier for businesses to offer digital content cross-border. They will have a stable contract law environment when selling online and otherwise at a distance to other Member States. Fully harmonised rules specific for digital content throughout the EU will remove the complexity caused by the different national rules that currently apply to contracts for the supply of digital content. They will also prevent legal fragmentation that otherwise would arise

*Amendment*

(6) Fully harmonised consumer contract law rules in all Member States will make it easier for businesses to offer digital content ***and digital services*** cross-border. They will have a stable contract law environment when selling online and otherwise at a distance to other Member States. Fully harmonised rules specific for digital content ***and digital services*** throughout the EU will remove the complexity caused by the different national rules that currently apply to contracts for the supply of digital content ***and digital***

from new national legislations regulating specifically digital content.

*services*. They will also prevent legal fragmentation that otherwise would arise from new national legislations regulating specifically digital content **and digital services**.

Or. it

#### **Amendment 127**

**Mylène Troszczyński**

#### **Proposal for a directive**

##### **Recital 7**

*Text proposed by the Commission*

*Amendment*

**(7) Consumers will benefit from fully harmonised rights for digital content at a high level of protection. They will have clear rights when they receive or access digital content from anywhere in the EU. This will increase their confidence in buying digital content. This will also contribute to reducing the detriment consumers currently suffer, since there will be a set of clear rights that will enable them to address problems they face with digital content.**

**deleted**

Or. fr

#### **Amendment 128**

**Evelyn Gebhardt, Lucy Anderson, Christel Schaldemose, Liisa Jaakonsaari, Marlene Mizzi, Josef Weidenholzer, Anna Hedh, Marc Tarabella, Catherine Stihler, Evelyn Regner**

#### **Proposal for a directive**

##### **Recital 7**

*Text proposed by the Commission*

*Amendment*

**(7) Consumers *will* benefit from *fully harmonised* rights for digital content at a high level of protection. They will have clear rights when they receive or access**

**(7) Consumers *already* benefit from *the European Union's past harmonisation efforts and will profit greatly from common* rights for digital content *and***

digital content from anywhere in the EU. This will increase their confidence in **buying** digital content. ***This will also contribute to reducing the detriment consumers currently suffer, since there will be a set of clear rights that will enable them to address problems they face with digital content.***

***digital services*** at a high level of protection. They will have clear rights when they receive or access digital content ***and digital services*** from anywhere in the EU. This will increase their confidence in ***accessing*** digital content ***and*** digital ***services.***

Or. en

**Amendment 129**  
**Julia Reda**

**Proposal for a directive**  
**Recital 7**

*Text proposed by the Commission*

(7) Consumers will benefit from **fully** harmonised rights for digital content at a high level of protection. They will have clear rights when they receive or access digital content from anywhere in the EU. This will increase their confidence in buying digital content. This will also contribute to reducing the detriment consumers currently suffer, since there will be a set of clear rights that will enable them to address problems they face with digital content.

*Amendment*

(7) Consumers will benefit from harmonised rights for digital content at a high level of protection. They will have clear rights when they receive or access digital content from anywhere in the EU. This will increase their confidence in buying digital content. This will also contribute to reducing the detriment consumers currently suffer, since there will be a set of clear rights that will enable them to address problems they face with digital content.

Or. en

**Amendment 130**  
**Axel Voss, Eva Maydell**

**Proposal for a directive**  
**Recital 7**

*Text proposed by the Commission*

(7) ***Consumers will benefit from fully harmonised rights for digital content at a high level of protection. They will have***

*Amendment*

(7) ***Fully harmonised consumer contract law rules in all Member States will make it easier for businesses to offer***

*clear rights when they receive or access digital content from anywhere in the EU. This will increase their confidence in buying digital content. This will also contribute to reducing the detriment consumers currently suffer, since there will be a set of clear rights that will enable them to address problems they face with digital content.*

*digital content and digital services cross-border as they will be able to rely on a stable contract law environment when supplying digital content or digital services online and otherwise at a distance to other Member States. Fully harmonised rules specific for digital content throughout the EU will remove the complexity caused by the different national rules that currently apply to contracts for the supply of digital content or digital services. They will also prevent legal fragmentation that otherwise would arise from new national legislations regulating specifically digital content or digital services.*

Or. en

**Amendment 131**  
**Daniel Buda**

**Proposal for a directive**  
**Recital 7**

*Text proposed by the Commission*

(7) Consumers will benefit from fully harmonised rights for digital content at a high level of protection. They will have clear rights when they receive or access digital content from anywhere in the EU. This will increase their confidence in buying digital content. This will also contribute to reducing the detriment consumers currently suffer, since there will be a set of clear rights that will enable them to address problems they face with digital content.

*Amendment*

(7) Consumers will benefit from fully harmonised rights for digital content **and digital services** at a high **and uniform** level of protection. They will have clear rights when they receive or access digital content **and digital services** from anywhere in the EU. This will increase their confidence in buying digital content **and digital services**. This will also contribute to reducing the detriment consumers currently suffer, since there will be a set of clear **and uniform** rights that will enable them to address problems they face with digital content **and digital services**.

Or. ro

**Amendment 132**  
**Virginie Rozière**

**Proposal for a directive**  
**Recital 7**

*Text proposed by the Commission*

(7) Consumers will benefit from fully harmonised rights for digital content at a high level of protection. They will have clear rights when they receive or access digital content from anywhere in the EU. This will increase their confidence in **buying** digital content. This will also contribute to **reducing the detriment consumers currently suffer, since there will be** a set of clear rights that will enable **them** to address problems they face with digital content.

*Amendment*

(7) Consumers will benefit from fully harmonised rights for digital content **or service** at a high level of protection. They will have clear rights when they receive or access digital content **or service** from anywhere in the EU. This will increase their confidence in **concluding contracts for supply of** digital content **or service**. This will also contribute to **closing the existing legal loophole by creating** a set of clear rights that will enable **consumers** to address problems they face with digital content **and service**.

Or. fr

**Amendment 133**  
**Marco Zullo**

**Proposal for a directive**  
**Recital 7**

*Text proposed by the Commission*

(7) Consumers will benefit from fully harmonised rights for digital content at a high level of protection. They will have clear rights when they receive or access digital content from anywhere in the EU. This will increase their confidence in buying digital content. This will also contribute to reducing the detriment consumers currently suffer, since there will be a set of clear rights that will enable them to address problems they face with digital content.

*Amendment*

(7) Consumers will benefit from fully harmonised rights for digital content **and digital services** at a high level of protection. They will have clear rights when they receive or access digital content **or digital services** from anywhere in the EU. This will increase their confidence in buying digital content **and digital services**. This will also contribute to reducing the detriment consumers currently suffer, since there will be a set of clear rights that will enable them to address problems they face with digital content **and digital services**.

Or. it

**Amendment 134**  
**Notis Marias**

**Proposal for a directive**  
**Recital 7**

*Text proposed by the Commission*

(7) Consumers will benefit from fully harmonised rights for digital content at a high level of protection. They will have clear rights when they receive or access digital content from anywhere in the **EU**. This will increase their confidence in buying digital content. This will also contribute to reducing the detriment consumers currently suffer, since there will be a set of clear rights that will enable them to address problems they face with digital content.

*Amendment*

(7) Consumers will benefit from fully harmonised rights for digital content at a high level of protection. They will have clear **contractual** rights when they receive or access digital content from anywhere in the **Union**. This will increase their confidence in buying digital content. This will also contribute to reducing the detriment consumers currently suffer, since there will be a set of clear rights that will enable them to address problems they face with digital content.

Or. el

**Amendment 135**  
**Julia Reda**

**Proposal for a directive**  
**Recital 8**

*Text proposed by the Commission*

(8) This Directive should **fully** harmonise a set of key rules that are so far not regulated at Union level. It should include therefore rules on conformity of the digital content, remedies available to consumers in cases of lack of conformity of digital content with the contract and certain modalities for the exercise of those remedies. This Directive should also harmonise certain aspects concerning the right to terminate a long term contract, as well as certain aspects concerning the modification of the digital content.

*Amendment*

(8) This Directive should harmonise a set of key rules that are so far not regulated at Union level. It should include therefore rules on conformity of the digital content, remedies available to consumers in cases of lack of conformity of digital content with the contract and certain modalities for the exercise of those remedies. This Directive should also harmonise certain aspects concerning the right to terminate a long term contract, **specific types of unfair contract terms relating to digital content and digital services** as well as certain aspects concerning the modification of the digital content.

**Amendment 136**

**Evelyne Gebhardt, Lucy Anderson, Christel Schaldemose, Liisa Jaakonsaari, Maria Grapini, Josef Weidenholzer, Anna Hedh, Marc Tarabella, Catherine Stihler, Evelyn Regner**

**Proposal for a directive****Recital 8***Text proposed by the Commission*

(8) This Directive should **fully** harmonise a set of key rules that are so far not regulated at Union level. It should include therefore rules on conformity of the digital content, remedies available to consumers in cases of lack of conformity of digital content with the contract and certain modalities for the exercise of those remedies. This Directive should also harmonise certain aspects concerning the right to terminate a long term contract, as well as certain aspects concerning the modification of the digital content.

*Amendment*

(8) This Directive should harmonise a set of key rules that are so far not regulated at Union level ***while leaving room for regulatory competition***. It should include therefore rules on conformity of the digital content ***and digital services***, remedies available to consumers in cases of lack of conformity of digital content ***and digital services*** with the contract and certain modalities for the exercise of those remedies. This Directive should also harmonise certain aspects concerning the right to terminate a long term contract, as well as certain aspects concerning the modification of the digital content.

Or. en

**Amendment 137**

**Jean-Marie Cavada**

**Proposal for a directive****Recital 8***Text proposed by the Commission*

(8) This Directive should fully harmonise a set of key rules that are so far not regulated at Union level. It should include therefore rules on conformity of the digital content, remedies available to consumers in cases of lack of conformity of digital content with the contract and certain modalities for the exercise of those

*Amendment*

(8) This Directive should fully harmonise a set of key rules that are so far not regulated at Union level. It should include therefore rules on conformity of the digital content, remedies available to consumers in cases of lack of conformity of digital content with the contract and certain modalities for the exercise of those



remedies. This Directive *should also harmonise* certain *aspects concerning the right to terminate a long term contract, as well as certain aspects concerning the modification of the digital content.*

remedies. This Directive *takes into account the fact that* certain *long-term contracts make sense because they give consumers more favourable conditions than short-term contracts. It should therefore be ensured that such contracts contain specific conditions so as not to distort the supplier's initial intention of providing advantages to consumers who opted for this type of contract.*

Or. fr

**Amendment 138**  
**Constance Le Grip**

**Proposal for a directive**  
**Recital 8**

*Text proposed by the Commission*

(8) This Directive should fully harmonise a set of key rules that are so far not regulated at Union level. It should include therefore rules on conformity of the digital content, remedies available to consumers in cases of lack of conformity of digital content with the contract and certain modalities for the exercise of those remedies. This Directive should also harmonise certain aspects concerning the right to terminate a long term contract, as well as certain aspects concerning the modification of the digital content.

*Amendment*

(8) This Directive should fully harmonise a set of key rules that are so far not regulated at Union level. It should include therefore rules on conformity of the digital content, remedies available to consumers in cases of lack of conformity of digital content with the contract and certain modalities for the exercise of those remedies. This Directive should also harmonise certain aspects concerning the right to terminate a long term contract, as well as certain aspects concerning the modification of the digital content, *without undermining pricing policies which reward consumers for their loyalty or the supplier's efforts to continuously improve content.*

Or. fr

**Amendment 139**  
**Axel Voss, Eva Maydell**

**Proposal for a directive**

## Recital 8

### *Text proposed by the Commission*

(8) This Directive should fully harmonise a set of key rules that are so far not regulated at Union level. It should include therefore rules on conformity of the digital content, remedies available to consumers in cases of lack of conformity of digital content with the contract and certain modalities for the exercise of those remedies. ***This Directive should also harmonise certain aspects concerning the right to terminate a long term contract, as well as certain aspects concerning the modification of the digital content.***

### *Amendment*

(8) This Directive should fully harmonise a set of key rules that are so far not regulated at Union level. It should include therefore rules on conformity of the digital content ***or digital services***, remedies available to consumers in cases of lack of conformity of digital content ***or digital services*** with the contract and certain modalities for the exercise of those remedies.

Or. en

## Amendment 140

Antanas Guoga

### Proposal for a directive

#### Recital 8

### *Text proposed by the Commission*

(8) This Directive should fully harmonise a set of key rules that are so far not regulated at Union level. It should include therefore rules on conformity of the digital content, remedies available to consumers in cases of lack of conformity ***of*** digital content with the contract and certain modalities for the exercise of those remedies. This Directive should also harmonise certain aspects concerning the right to terminate a long term contract, as well as certain aspects concerning the modification of the digital content.

### *Amendment*

(8) This Directive should fully harmonise a set of key rules that are so far not regulated at Union level. It should include therefore rules on conformity of the digital content, remedies available to consumers in cases of lack of ***such*** conformity ***or a failure to supply*** digital content with the contract and certain modalities for the exercise of those remedies. This Directive should also harmonise certain aspects concerning the right to terminate a long term contract, as well as certain aspects concerning the modification of the digital content.

Or. en

**Amendment 141**  
**Notis Marias**

**Proposal for a directive**  
**Recital 8**

*Text proposed by the Commission*

(8) This Directive should fully harmonise a set of key rules that are so far not regulated at Union level. It should include therefore rules on conformity of the digital content, remedies available to consumers in cases of lack of conformity of digital content with the contract and certain modalities for the exercise of those remedies. This Directive should also harmonise certain aspects concerning the right to terminate a long term contract, as well as certain aspects concerning the modification of the digital content.

*Amendment*

(8) This Directive should fully harmonise a set of key rules that are so far not regulated at Union level ***so as to expedite the development of the digital market for the benefit of consumers and undertakings***. It should include therefore rules on conformity of the digital content, remedies available to consumers in cases of lack of conformity of digital content with the contract and certain modalities for the exercise of those remedies. This Directive should also harmonise certain aspects concerning the right to terminate a long term contract, as well as certain aspects concerning the modification of the digital content.

Or. el

**Amendment 142**  
**Virginie Rozière**

**Proposal for a directive**  
**Recital 8**

*Text proposed by the Commission*

(8) This Directive should fully harmonise a set of key rules that are so far not regulated at Union level. It should include therefore rules on conformity of the digital content, remedies available to consumers in cases of lack of conformity of digital content with the contract and certain modalities for the exercise of those remedies. This Directive should also harmonise certain aspects concerning the right to terminate a long term contract, as

*Amendment*

(8) This Directive should fully harmonise a set of key rules that are so far not regulated at Union level. It should include therefore rules on conformity of the digital content ***or service***, remedies available to consumers in cases of lack of conformity of digital content ***or service*** with the contract and certain modalities for the exercise of those remedies. This Directive should also harmonise certain aspects concerning the right to terminate a long term contract, as well as certain

well as certain aspects concerning the modification of the digital content.

aspects concerning the modification of the digital content.

Or. fr

#### **Amendment 143**

**Marco Zullo**

#### **Proposal for a directive**

##### **Recital 8**

*Text proposed by the Commission*

(8) This Directive should fully harmonise a set of key rules that are so far not regulated at Union level. It should include therefore rules on conformity of the digital content, remedies available to consumers in cases of lack of conformity of digital content with the contract and certain modalities for the exercise of those remedies. This Directive should also harmonise certain aspects concerning the right to terminate a long term contract, as well as certain aspects concerning the modification of the digital content.

*Amendment*

(8) This Directive should fully harmonise a set of key rules that are so far not regulated at Union level. It should include therefore rules on conformity of the digital content ***and digital services***, remedies available to consumers in cases of lack of conformity of digital content ***or digital services*** with the contract and certain modalities for the exercise of those remedies. This Directive should also harmonise certain aspects concerning the right to terminate a long term contract, as well as certain aspects concerning the modification of the digital content ***or digital services***.

Or. it

#### **Amendment 144**

**Evelyn Gebhardt, Lucy Anderson, Christel Schaldemose, Liisa Jaakonsaari, Josef Weidenholzer, Anna Hedh, Marc Tarabella, Catherine Stihler, Evelyn Regner**

#### **Proposal for a directive**

##### **Recital 9**

*Text proposed by the Commission*

(9) ***By fully harmonising all requirements related to the topics regulated by this Directive, it precludes Member States, within its scope of application, from providing any further***

*Amendment*

***deleted***

*formal or substantive requirements, such as a period during which the lack of conformity has to become apparent, an obligation for the consumer to notify the supplier of a lack of conformity within a specific period or an obligation for the consumer to pay for the use of the digital content until the moment of termination because of a lack of conformity with the contract.*

Or. en

#### **Amendment 145**

**Mylène Troszczyński**

#### **Proposal for a directive**

##### **Recital 9**

*Text proposed by the Commission*

*Amendment*

**(9)** *By fully harmonising all requirements related to the topics regulated by this Directive, it precludes Member States, within its scope of application, from providing any further formal or substantive requirements, such as a period during which the lack of conformity has to become apparent, an obligation for the consumer to notify the supplier of a lack of conformity within a specific period or an obligation for the consumer to pay for the use of the digital content until the moment of termination because of a lack of conformity with the contract.*

*deleted*

Or. fr

#### *Justification*

*Clause contrary to the subsidiarity principle. Member States must remain free to introduce into their national law any provision they deem it important to introduce in the sole interest of their populace.*

**Amendment 146**  
**Julia Reda**

**Proposal for a directive**  
**Recital 9**

*Text proposed by the Commission*

(9) By **fully harmonising all requirements** related to the topics regulated by this Directive, it precludes Member States, within its scope of application, from providing any further formal or substantive requirements, such as a period during which the lack of conformity has to become apparent, an obligation for the consumer to notify the supplier of a lack of conformity within a specific period or an obligation for the consumer to pay for the use of the digital content until the moment of termination because of a lack of conformity with the contract.

*Amendment*

(9) By **providing a minimum level of consumer protection** related to the topics regulated by this Directive, it precludes Member States, within its scope of application, from providing any further formal or substantive requirements **of the consumer**, such as a period during which the lack of conformity has to become apparent, an obligation for the consumer to notify the supplier of a lack of conformity within a specific period or an obligation for the consumer to pay for the use of the digital content until the moment of termination because of a lack of conformity with the contract.

Or. en

**Amendment 147**  
**Daniel Buda**

**Proposal for a directive**  
**Recital 9**

*Text proposed by the Commission*

(9) By fully harmonising all requirements related to the topics regulated by this Directive, it precludes Member States, within its scope of application, from providing any further formal or substantive requirements, such as a period during which the lack of conformity has to become apparent, an obligation for the consumer to notify the supplier of a lack of conformity within a specific period or an obligation for the consumer to pay for the use of the digital content until the moment

*Amendment*

(9) By fully harmonising all requirements related to the topics regulated by this Directive, it precludes Member States, within its scope of application, from providing any further formal or substantive **rules, be they more or less stringent, including** requirements such as a period during which the lack of conformity has to become apparent, an obligation for the consumer to notify the supplier of a lack of conformity within a specific period or an obligation for the consumer to pay for the use of the digital content until the moment

of termination because of a lack of conformity with the contract.

of termination because of a lack of conformity with the contract.

Or. ro

#### **Amendment 148**

**Axel Voss, Eva Maydell**

#### **Proposal for a directive**

##### **Recital 9**

*Text proposed by the Commission*

(9) By fully harmonising all requirements related to the topics regulated by this Directive, it precludes Member States, within its scope of application, from providing any further formal or substantive requirements, such *as a period during which the lack of conformity has to become apparent*, an obligation for the consumer to notify the supplier of a lack of conformity within a specific period or an obligation for the consumer to pay for the use of the digital content until the moment of termination because of a lack of conformity with the contract.

*Amendment*

(9) By fully harmonising all requirements related to the topics regulated by this Directive, it precludes Member States, within its scope of application, from providing any further formal or substantive requirements, such an obligation for the consumer to notify the supplier of a lack of conformity within a specific period or an obligation for the consumer to pay for the use of the digital content *or digital service* until the moment of termination because of a lack of conformity with the contract.

Or. en

#### **Amendment 149**

**Virginie Rozière**

#### **Proposal for a directive**

##### **Recital 9**

*Text proposed by the Commission*

(9) By fully harmonising all requirements related to the topics regulated by this Directive, it precludes Member States, within its scope of application, from providing any further formal or substantive requirements, such as a period during which the lack of conformity has to

*Amendment*

(9) By fully harmonising all requirements related to the topics regulated by this Directive, it precludes Member States, within its scope of application, from providing any further formal or substantive requirements, such as a period during which the lack of conformity has to

become apparent, an obligation for the consumer to notify the supplier of a lack of conformity within a specific period or an obligation for the consumer to pay for the use of the digital content until the moment of termination because of a lack of conformity with the contract.

become apparent, an obligation for the consumer to notify the supplier of a lack of conformity within a specific period or an obligation for the consumer to pay for the use of the digital content ***or service*** until the moment of termination because of a lack of conformity with the contract.

Or. fr

#### **Amendment 150**

**Lucy Anderson, Maria Grapini, Marc Tarabella, Afzal Khan, Maria Arena, Mary Honeyball, Victor Negrescu**

#### **Proposal for a directive Recital 9 a (new)**

*Text proposed by the Commission*

*Amendment*

***(9 a) In order to allow businesses and consumers to rely upon clear rules across the Union reflecting good customer-focused commercial practice, without prejudice to any other rights under this Directive or otherwise, the consumer should have a right to reject digital content or services for non-conformity by returning them to the relevant supplier or unsubscribing as applicable.***

Or. en

#### **Amendment 151**

**Notis Marias**

#### **Proposal for a directive Recital 10**

*Text proposed by the Commission*

*Amendment*

(10) This Directive should not affect national laws ***to the extent that the topics concerned are not regulated by this Directive***, such as national rules providing for obligations of the consumer towards the

(10) This Directive should not affect national laws, such as national rules providing for obligations of the consumer towards the supplier of digital content or regulating the qualification, formation and



supplier of digital content or regulating the qualification, formation and validity of contracts or the legality of the content. Member States should also remain free to provide rules for the detailed conditions for the exercise of rights, such as the right to damages to the extent not covered by the Directive, or rules which provide for the consequences of termination of the contract which apply in addition to restitution rules regulated by this Directive.

validity of contracts or the legality of the content. Member States should also remain free to provide rules for the detailed conditions for the exercise of rights, such as the right to damages to the extent not covered by the Directive, or rules which provide for the consequences of termination of the contract which apply in addition to restitution rules regulated by this Directive.

Or. el

## **Amendment 152**

**Axel Voss, Eva Maydell**

### **Proposal for a directive**

#### **Recital 10**

##### *Text proposed by the Commission*

(10) This Directive should not affect national laws to the extent that the topics concerned are not regulated by this Directive, such as national rules providing for obligations of the consumer towards the supplier of digital content or regulating the qualification, formation and validity of contracts or the legality of the content. Member States should also remain free to provide rules for the *detailed* conditions for the *exercise of rights, such as the right to damages to the extent not covered by the Directive, or rules which provide for the consequences of termination of the contract* which *apply in addition to restitution rules regulated by this Directive*.

##### *Amendment*

(10) This Directive should not affect national laws to the extent that the topics concerned are not regulated by this Directive, such as national rules providing for obligations of the consumer towards the supplier of digital content or ***digital service*** ***or*** regulating the qualification, formation and validity of contracts or the legality of the content. Member States should also remain free to provide rules ***on the right to damages, or rules which provide*** for the ***consequences of termination of the contract which apply in addition to restitution rules regulated by this Directive***. ***This Directive should not affect provisions of national laws governing the conditions under which a contract for the supply of digital content or digital services is considered to be linked with or ancillary to another contract the consumer has concluded with the supplier or another trader, and the effect this has on either contract or on the remedies to be exercised under either contract. Member States should also be free to determine the***

*nature of such contracts, which could be, inter alia, sales, services, rental or sui generis contracts.*

Or. en

**Amendment 153**

**Julia Reda**

**Proposal for a directive**

**Recital 10 a (new)**

*Text proposed by the Commission*

*Amendment*

*(10 a) This Directive should not affect provisions of national laws governing the conditions under which a contract for the supply of digital content or digital services is considered to be linked with or ancillary to another contract the consumer has concluded with the supplier or another trader, and the effect this has on either contract or on the remedies to be exercised under either contract. In order to ensure consistency between the nature of contracts applicable to the provision of digital content, whether it is supplied on a durable medium, embedded or not, all contracts for the provision of digital content that are not long-term contracts such as streaming services should be treated as sales contracts.*

Or. en

**Amendment 154**

**Virginie Rozière**

**Proposal for a directive**

**Recital 11**

*Text proposed by the Commission*

*Amendment*

(11) The Directive should address problems across different categories of

(11) The Directive should address problems across different categories of

digital content *and its* supply. In order to *cater for fast technological developments and to maintain the future-proof nature of the notion of digital content, this notion as used in this Directive should be broader than in Directive 2011/83/EU of the European Parliament and of the Council.*<sup>30</sup> *In particular it should cover services which allow the creation, processing or storage of data. While there are numerous ways for digital content to be supplied, such as **transmission on a durable medium**, downloading by consumers on their devices, web-streaming, allowing access to storage capabilities of digital **content** or access to the use of social media, this Directive should apply to all digital content independently of the medium used for *its* transmission. Differentiating between different categories in this technologically fast changing market is not desirable because it would hardly be possible to avoid discriminations between suppliers. A level-playing field between suppliers of different categories of digital content should be ensured. **However this Directive should not apply to digital content which is embedded in goods in such a way that it operates as an integral part of the goods and its functions are subordinate to the main functionalities of the goods.***

digital content *or service and their* supply. In order to *ensure legal consistency, the notion of digital content should correspond with that used in Directive 2011/83/EU of the European Parliament and of the Council and should cover, for example, video, audio, applications, digital games and any other software. In order to cater for current and future technological developments , this Directive should also cover digital services which allow the creation, processing or storage of data, for example cloud storage or file hosting services. It should likewise cover digital services allowing sharing and other interaction, for example social media, instant messaging services, video or audio-sharing websites or platforms, provided they fall outside the scope of electronic communication services within the meaning of Directive 2002/21/EC.* While there are numerous ways for digital content *or digital services* to be supplied, such as downloading by consumers on their devices, web-streaming, allowing access to storage capabilities of digital *services* or access to the use of social media, this Directive should apply to all digital content *or digital services* independently of the medium used for *their* transmission. Differentiating between different categories in this technologically fast changing market is not desirable because it would hardly be possible to avoid discriminations between suppliers. A level-playing field between suppliers of different categories of digital content *or service* should be ensured.

---

<sup>30</sup> *OJ L 304, 22.11.2011, p.64.*

Or. fr

**Amendment 155**  
**Julia Reda**

**Proposal for a directive**  
**Recital 11**

*Text proposed by the Commission*

(11) The Directive should address problems across different categories of digital content and *its supply. In order to cater for fast technological developments and to maintain the future-proof nature of the notion of digital content, this notion as used in this Directive should be broader than in Directive 2011/83/EU of the European Parliament and of the Council.*<sup>30</sup> *In particular it should cover services which allow the creation, processing or storage of data.* While there are numerous ways for digital content to be supplied, such as transmission on a durable medium, downloading by consumers on their devices, web-streaming, allowing access to storage capabilities of digital content or access to the use of social media, this Directive should apply to all digital content independently of the medium used for its transmission. Differentiating between different categories in this technologically fast changing market is not desirable because it would hardly be possible to avoid discriminations between suppliers. A level-playing field between suppliers of different categories of digital content should be ensured. *However this Directive should not apply to digital content which is embedded in goods in such a way that it operates as an integral part of the goods and its functions are subordinate to the main functionalities of the goods.*

---

<sup>30</sup> *OJ L 304, 22.11.2011, p.64.*

*Amendment*

(11) The Directive should address problems across different categories of digital content and digital services *and their supply*. While there are numerous ways for digital content *or digital services* to be supplied, such as transmission on a durable medium, downloading by consumers on their devices, web-streaming, allowing access to storage capabilities of digital content or access to the use of social media, this Directive should apply to all digital content independently of the medium used for its transmission. Differentiating between different categories in this technologically fast changing market is not desirable because it would hardly be possible to avoid discriminations between suppliers. A level-playing field between suppliers of different categories of digital content should be ensured.

Or. en

**Amendment 156**  
**Daniel Buda**

**Proposal for a directive**  
**Recital 11**

*Text proposed by the Commission*

**(11)** The Directive should address problems across different categories of digital content **and its** supply. In order to cater for fast technological developments and to maintain the future-proof nature of the notion of digital content, **this** notion as used in this Directive should **be broader than** in Directive 2011/83/EU of the European Parliament and of the Council.<sup>30</sup> **In particular** it should cover services which allow the creation, processing or storage of data. While there are numerous ways for digital content to be supplied, such as transmission on a durable medium, downloading by consumers on their devices, web-streaming, allowing access to storage capabilities of digital content or access to the use of social media, this Directive should apply to all digital content independently of the medium used for **its** transmission. Differentiating between different categories in this technologically fast changing market is not desirable because it would hardly be possible to avoid discriminations between suppliers. A **level-playing field** between suppliers of different categories of digital content should be ensured. However this Directive should not apply to digital content which is embedded in goods in such a way that it operates as an integral part of the goods and its functions are subordinate to the main functionalities of the goods.

*Amendment*

**(11)** The Directive should address problems across different categories of digital content **or digital services and their** supply. In order to **ensure consistency with the acquis and** cater for fast technological developments and to maintain the future-proof nature of the notion of digital content, **the** notion as used in this Directive should **correspond to the one used** in Directive 2011/83/EU of the European Parliament and of the Council<sup>30</sup>. **This notion should cover, for example, video and audio content, applications, digital games and any other software. In order to cater for rapid technological developments and to ensure this Directive remains abreast of the times,** it should **also** cover services which allow the creation, processing or storage of data, **such as cloud storage services or file hosting services. The notion of digital services should also cover social media platforms, instant messaging services, and video or audio-sharing websites or platforms which fall outside the scope of electronic communication services.** While there are numerous ways for digital content **or digital services** to be supplied, such as transmission on a durable medium, downloading by consumers on their devices, web-streaming, allowing access to storage capabilities of digital content or access to the use of social media, this Directive should apply to all digital content **and digital services** independently of the medium used for **their** transmission. Differentiating between different categories in this technologically fast changing market is not desirable because it would hardly be possible to avoid discriminations between suppliers. A **level playing-field** between suppliers of different categories of digital content **and digital**

*services* should be ensured. However this Directive should not apply to digital content which is embedded in goods in such a way that it operates as an integral part of the goods and its functions are subordinate to the main functionalities of the goods.

---

<sup>30</sup> OJ L 304, 22.11.2011, p.64.

---

<sup>30</sup> OJ L 304, 22.11.2011, p.64.

Or. ro

## **Amendment 157**

**Eva Maydell, Axel Voss, Pascal Arimont**

### **Proposal for a directive**

#### **Recital 11**

##### *Text proposed by the Commission*

(11) The Directive should address problems across different categories of digital content *and its* supply. In order to *cater for fast technological developments and to maintain the future-proof nature of* the notion of digital content, *this notion as used in this Directive should be broader than* in Directive 2011/83/EU of the European Parliament and of the Council.<sup>30</sup> In *particular it* should cover services which allow the creation, processing or storage of data. While there are numerous ways for digital content to be supplied, such as transmission on a *durable* medium, downloading by consumers on their devices, web-streaming, allowing access to storage capabilities of digital *content* or access to the use of social media, this Directive should apply to all digital content independently of the medium used for its transmission. Differentiating between different categories in this technologically fast changing market is not desirable because it would hardly be possible to avoid discriminations between suppliers. A level-

##### *Amendment*

(11) The Directive should address problems across different categories of digital content *or digital services and their* supply. In order to *ensure consistency with the acquis* the notion of digital content *should correspond with the one used in* Directive 2011/83/EU of the European Parliament and of the Council *and should cover for example video, audio, applications, digital games and any other software.*<sup>30</sup> In *order to cater for fast technological developments and to ensure this Directive is future-proof, this Directive should also* cover *digital* services which allow the creation, processing or storage of data, *for example cloud storage or file hosting services. It should also cover digital services allowing sharing and other interaction, for example social media, video or audio sharing websites or platforms.* While there are numerous ways for digital content *or digital services* to be supplied, such as transmission on a *tangible* medium, downloading by consumers on their devices, web-streaming, allowing access to storage

playing field between suppliers of different categories of digital content should be ensured. ***However this Directive should not apply to digital content which is embedded in goods in such a way that it operates as an integral part of the goods and its functions are subordinate to the main functionalities of the goods.***

---

<sup>30</sup> OJ L 304, 22.11.2011, p.64.

capabilities of digital ***services*** or access to the use of social media, this Directive should apply to all digital content ***or digital services*** independently of the medium used for its transmission. Differentiating between different categories in this technologically fast changing market is not desirable because it would hardly be possible to avoid discriminations between suppliers. A level-playing field between suppliers of different categories of digital content ***or digital services*** should be ensured. This Directive should ***also*** apply to digital content which is embedded in goods, ***including DVDs and CDs, unless the supplier proves that the defect lies in the hardware of the good.***

---

<sup>30</sup> OJ L 304, 22.11.2011, p.64.

Or. en

## **Amendment 158**

### **Marco Zullo**

#### **Proposal for a directive**

#### **Recital 11**

##### *Text proposed by the Commission*

(11) The Directive should address problems across different categories of digital content and ***its*** supply. In order to ***cater for fast technological developments and to maintain the future-proof nature of the notion of digital content, this notion as used in this Directive should be broader than in Directive 2011/83/EU of the European Parliament and of the Council.***<sup>30</sup> ***In particular it should cover services which allow the creation, processing or storage of data.*** While there are numerous ways for digital content to be supplied, such as transmission on a durable medium, downloading by consumers on their devices, web-streaming, allowing

##### *Amendment*

(11) The Directive should address problems across different categories of digital content and ***digital services and their*** supply. In order to ***ensure Directive 2011/83/EU of the European Parliament and of the Council***<sup>30</sup> ***is applied properly,*** the notion of 'digital content' ***should refer to it and include, for example computer programmes, applications, games, music, videos or texts.*** The Directive should ***furthermore cover digital services which allow the creation, processing or storage of data, such as cloud services or file hosting services, digital services allowing data sharing such as social media, video or audio-sharing platforms, instant***

access to storage capabilities of digital content or access to the use of social media, this Directive should apply to all digital content independently of the medium used for *its* transmission. Differentiating between different categories in this technologically fast changing market is not desirable because it would hardly be possible to avoid discriminations between suppliers. A *level-playing field* between suppliers of different categories of digital content should be ensured. However this Directive should not apply to digital content which is embedded in goods in such a way that it operates as an integral part of the goods and its functions are subordinate to the main functionalities of the goods.

---

<sup>30</sup> OJ L 304, 22.11.2011, p.64.

*messaging services*. While there are numerous ways for digital content *or digital services* to be supplied, such as transmission on a durable medium, downloading by consumers on their devices, web-streaming, allowing access to storage capabilities of digital content or access to the use of social media, this Directive should apply to all digital content *or digital services* independently of the medium used for *their* transmission. Differentiating between different categories in this technologically fast changing market is not desirable because it would hardly be possible to avoid discriminations between suppliers. A *level playing-field* between suppliers of different categories of digital content *and digital services* should be ensured. However this Directive should not apply to digital content which is embedded in goods in such a way that it operates as an integral part of the goods and its functions are subordinate to the main functionalities of the goods.

---

<sup>30</sup> OJ L 304, 22.11.2011, p. 64

Or. it

## **Amendment 159**

### **Daniel Dalton, Vicky Ford**

#### **Proposal for a directive**

#### **Recital 11**

##### *Text proposed by the Commission*

(11) The Directive should address problems across different categories of digital content and its supply. In order to cater for fast technological developments and to maintain the future-proof nature of the notion of digital content, this notion as used in this Directive should be broader than in Directive 2011/83/EU of the

##### *Amendment*

(11) The Directive should address problems across different categories of digital content and its supply. In order to cater for fast technological developments and to maintain the future-proof nature of the notion of digital content, this notion as used in this Directive should be broader than in Directive 2011/83/EU of the



European Parliament and of the Council.<sup>30</sup>

***In particular it*** should cover services which allow the creation, processing or storage of data. While there are numerous ways for digital content to be supplied, such as transmission on a durable medium, downloading by consumers on their devices, web-streaming, allowing access to storage capabilities of digital content or access to the use of social media, this Directive should apply to all digital content independently of the medium used for its transmission. Differentiating between different categories in this technologically fast changing market is not desirable because it would hardly be possible to avoid discriminations between suppliers. A level-playing field between suppliers of different categories of digital content should be ensured. ***However this*** Directive should ***not*** apply to ***digital content which is embedded in goods in such a way that it operates as an integral part of the goods and its functions are subordinate to the main functionalities of the goods.***

---

<sup>30</sup> OJ L 304, 22.11.2011, p.64.

European Parliament and of the Council.<sup>30</sup>

It should ***also*** cover services which allow the creation, processing or storage of data. While there are numerous ways for digital content to be supplied, such as transmission on a durable medium, downloading by consumers on their devices, web-streaming, allowing access to storage capabilities of digital content or access to the use of social media, this Directive should apply to all digital content independently of the medium used for its transmission. Differentiating between different categories in this technologically fast changing market is not desirable because it would hardly be possible to avoid discriminations between suppliers. A level-playing field between suppliers of different categories of digital content should be ensured. This Directive should ***also*** apply to ***all forms of digital content, including all forms of embedded digital content.***

---

<sup>30</sup> OJ L 304, 22.11.2011, p.64.

Or. en

### *Justification*

*In the interests of consumer protection and clarity, the Digital Content Directive should apply to all digital content, including embedded digital content. This removes unnecessary confusion for consumers and suppliers over the status of digital content provided embedded within a tangible good.*

## **Amendment 160**

**Kaja Kallas, Dita Charanzová**

### **Proposal for a directive**

#### **Recital 11**

*Text proposed by the Commission*

*Amendment*

(11) The Directive should address problems across different categories of digital content and its supply. In order to cater for fast technological developments and to maintain the future-proof nature of the notion of digital content, this notion as used in this Directive should be broader than in Directive 2011/83/EU of the European Parliament and of the Council.<sup>30</sup> In particular it should cover services which allow the creation, processing or storage of data. While there are numerous ways for digital content to be supplied, such as transmission on a durable medium, downloading by consumers on their devices, web-streaming, allowing access to storage capabilities of digital content or access to the use of social media, this Directive should apply to all digital content independently of the medium used for its transmission. Differentiating between different categories in this technologically fast changing market is not desirable because it would hardly be possible to avoid discriminations between suppliers. A level-playing field between suppliers of different categories of digital content should be ensured. *However this* Directive should *not* apply to digital content which is embedded in goods in such a way that it operates as an integral part of the goods *and its functions are subordinate to the main functionalities of the goods.*

---

<sup>30</sup> OJ L 304, 22.11.2011, p.64.

(11) The Directive should address problems across different categories of digital content and its supply. In order to cater for fast technological developments and to maintain the future-proof nature of the notion of digital content, this notion as used in this Directive should be broader than in Directive 2011/83/EU of the European Parliament and of the Council.<sup>30</sup> In particular it should cover services which allow the creation, processing or storage of data. While there are numerous ways for digital content to be supplied, such as transmission on a durable medium, downloading by consumers on their devices, web-streaming, allowing access to storage capabilities of digital content or access to the use of social media, this Directive should apply to all digital content independently of the medium used for its transmission. Differentiating between different categories in this technologically fast changing market is not desirable because it would hardly be possible to avoid discriminations between suppliers. A level-playing field between suppliers of different categories of digital content should be ensured. This Directive should *also* apply to digital content which is embedded in goods in such a way that it operates as an integral part of the goods, *unless the seller proves that the lack of conformity lies in the hardware of the good.*

---

<sup>30</sup> OJ L 304, 22.11.2011, p.64.

Or. en

**Amendment 161**  
**Antanas Guoga**

**Proposal for a directive**  
**Recital 11**

(11) The Directive should address problems across different categories of digital content and its supply. In order to cater for fast technological developments and to maintain the future-proof nature of the notion of digital content, this notion as used in this Directive should be broader than in Directive 2011/83/EU of the European Parliament and of the Council.<sup>30</sup> In particular it should cover services which allow the creation, processing or storage of data. While there are numerous ways for digital content to be supplied, such as transmission on a durable medium, downloading by consumers on their devices, web-streaming, allowing access to storage capabilities of digital content or access to the use of social media, this Directive should apply to all digital content independently of the medium used for its transmission. Differentiating between different categories in this technologically fast changing market is not desirable because it would hardly be possible to avoid discriminations between suppliers. A level-playing field between suppliers of different categories of digital content should be ensured. ***However this Directive should not apply to digital content which is embedded in goods in such a way that it operates as an integral part of the goods and its functions are subordinate to the main functionalities of the goods.***

---

<sup>30</sup> OJ L 304, 22.11.2011, p.64.

(11) The Directive should address problems across different categories of digital content and its supply. In order to cater for fast technological developments and to maintain the future-proof nature of the notion of digital content, this notion as used in this Directive should be broader than in Directive 2011/83/EU of the European Parliament and of the Council.<sup>30</sup> In particular it should cover services which allow the creation, processing or storage of data. While there are numerous ways for digital content to be supplied, such as transmission on a durable medium, downloading by consumers on their devices, web-streaming, allowing access to storage capabilities of digital content or access to the use of social media, this Directive should apply to all digital content independently of the medium used for its transmission. Differentiating between different categories in this technologically fast changing market is not desirable because it would hardly be possible to avoid discriminations between suppliers. A level-playing field between suppliers of different categories of digital content should be ensured.

---

<sup>30</sup> OJ L 304, 22.11.2011, p.64.

Or. en

**Amendment 162**  
**Marietje Schaake**

**Proposal for a directive**  
**Recital 11**

(11) The Directive should address problems across different categories of digital content and its supply. In order to cater for fast technological developments and to maintain the future-proof nature of the notion of digital content, this notion as used in this Directive should be broader than in Directive 2011/83/EU of the European Parliament and of the Council.<sup>30</sup> In particular it should cover services which allow the creation, processing or storage of data. While there are numerous ways for digital content to be supplied, such as transmission on a durable medium, downloading by consumers on their devices, web-streaming, allowing access to storage capabilities of digital content or access to the use of social media, this Directive should apply to all digital content independently of the medium used for its transmission. Differentiating between different categories in this technologically fast changing market is not desirable because it would hardly be possible to avoid discriminations between suppliers. A level-playing field between suppliers of different categories of digital content should be ensured. ***However this Directive should not apply to digital content which is embedded in goods in such a way that it operates as an integral part of the goods and its functions are subordinate to the main functionalities of the goods.***

---

<sup>30</sup> OJ L 304, 22.11.2011, p.64.

(11) The Directive should address problems across different categories of digital content and its supply. In order to cater for fast technological developments and to maintain the future-proof nature of the notion of digital content, this notion as used in this Directive should be broader than in Directive 2011/83/EU of the European Parliament and of the Council.<sup>30</sup> In particular it should cover services which allow the creation, processing or storage of data. While there are numerous ways for digital content to be supplied, such as transmission on a durable medium, downloading by consumers on their devices, web-streaming, allowing access to storage capabilities of digital content or access to the use of social media, this Directive should apply to all digital content independently of the medium used for its transmission. Differentiating between different categories in this technologically fast changing market is not desirable because it would hardly be possible to avoid discriminations between suppliers. A level-playing field between suppliers of different categories of digital content should be ensured.

---

<sup>30</sup> OJ L 304, 22.11.2011, p.64.

Or. en

## Amendment 163

Notis Marias

### Proposal for a directive

#### Recital 11

(11) The Directive should address problems across **different** categories of digital content and its supply. In order to cater for fast technological developments and to maintain the future-proof nature of the notion of digital content, this notion as used in this Directive should be broader than in Directive 2011/83/EU of the European Parliament and of the Council.<sup>30</sup> In particular it should cover services which allow the creation, processing or storage of data. While there are numerous ways for digital content to be supplied, such as transmission on a durable medium, downloading by consumers on their devices, web-streaming, allowing access to storage capabilities of digital content or access to the use of social media, this Directive should apply to all digital content independently of the medium used for its transmission. Differentiating between different categories in this technologically fast changing market is not desirable because it would hardly be possible to avoid discriminations between suppliers. A level-playing field between suppliers of different categories of digital content should be ensured. However this Directive should not apply to digital content which is embedded in goods in such a way that it operates as an integral part of the goods and its functions are subordinate to the main functionalities of the goods.

(11) The Directive should address problems across **all** categories of digital content and its supply. In order to cater for fast technological developments and to maintain the future-proof nature of the notion of digital content, this notion as used in this Directive should be broader than in Directive 2011/83/EU of the European Parliament and of the Council<sup>30</sup>. In particular it should cover services which allow the creation, processing or storage of data. While there are numerous ways for digital content to be supplied, such as transmission on a durable medium, downloading by consumers on their devices, web-streaming, allowing access to storage capabilities of digital content or access to the use of social media, this Directive should apply to all digital content independently of the medium used for its transmission. Differentiating between different categories in this technologically fast changing market is not desirable because it would hardly be possible to avoid discriminations between suppliers. A level-playing field between suppliers of different categories of digital content should be ensured. However this Directive should not apply to digital content which is embedded in goods in such a way that it operates as an integral part of the goods and its functions are subordinate to the main functionalities of the goods.

---

<sup>30</sup> OJ L 304, 22.11.2011, p.64.

Or. el

**Amendment 164**  
**Antanas Guoga**

**Proposal for a directive**  
**Recital 12**

(12) ***In order to meet the expectations of consumers and ensure a clear-cut and simple legal framework for suppliers of digital content offered on a durable medium, in relation to conformity requirements and remedies available to consumers for non-conformity, this Directive should apply to goods such as DVDs and CDs, incorporating digital content in such a way that the goods function only as a carrier of the digital content.*** The Directive should apply to the digital content supplied on a durable medium, independently whether it is sold at a distance or in face-to-face situations, so as to avoid fragmentation between the different distribution channels. ***The Directive 2011/83 should continue to apply to those goods, including to obligations related to the delivery of goods, remedies in case of the failure to deliver and the nature of the contract under which those goods are supplied.*** The Directive is also without prejudice to the distribution right applicable to these goods under copyright law.

(12) The Directive should apply to the digital content supplied on a durable medium, independently whether it is sold at a distance or in face-to-face situations, so as to avoid fragmentation between the different distribution ***channels.*** ***The*** Directive is also without prejudice to the distribution right applicable to these goods under copyright law.

Or. en

## **Amendment 165**

**Eva Maydell, Pascal Arimont**

### **Proposal for a directive**

#### **Recital 12**

(12) ***In order to meet the expectations of consumers and ensure a clear-cut and simple legal framework for suppliers of digital content offered on a durable medium, in relation to conformity requirements and remedies available to consumers for non-conformity, this Directive should apply to goods such as***

(12) The Directive should apply to the digital content supplied on a ***tangible*** medium, independently whether it is ***supplied*** at a distance or in face-to-face situations, so as to avoid fragmentation between the different distribution channels. The Directive 2011/83 should continue to apply to those goods, including ***the***

***DVDs and CDs, incorporating digital content in such a way that the goods function only as a carrier of the digital content.*** The Directive should apply to the digital content supplied on a ***durable*** medium, independently whether it is ***sold*** at a distance or in face-to-face situations, so as to avoid fragmentation between the different distribution channels. The Directive 2011/83 should continue to apply to those goods, including ***to*** obligations related to the delivery of goods, remedies in case of the failure to deliver and the nature of the contract under which those goods are supplied. The Directive is also without prejudice to the distribution right applicable to these goods under copyright law.

obligations related to the delivery of goods, remedies in case of the failure to deliver and the nature of the contract under which those goods are supplied. The Directive is also without prejudice to the distribution right applicable to these goods under copyright law.

Or. en

## **Amendment 166** **Virginie Rozière**

### **Proposal for a directive** **Recital 12**

#### *Text proposed by the Commission*

(12) In order to meet the expectations of consumers and ensure a ***clear-cut and simple*** legal framework for suppliers of digital content offered on a ***durable*** medium, in relation to conformity requirements and remedies available to consumers for non-conformity, this Directive should apply to ***goods such as DVDs and CDs, incorporating digital content in such a way that the goods function only as a carrier*** of the digital content. ***The*** Directive should apply to the digital content supplied on a ***durable*** medium, independently whether it is sold at a distance or in face-to-face situations, so as to avoid fragmentation between the different distribution channels. The Directive 2011/83 should continue to apply

#### *Amendment*

(12) In order to meet the expectations of consumers and ensure a ***clear and unambiguous*** legal framework for suppliers of digital content ***or service*** offered on a ***physical*** medium, in relation to conformity requirements and remedies available to consumers for non-conformity, this Directive should ***also*** apply to ***material goods*** incorporating digital content in such a way that ***it constitutes an integral part of the material good and cannot easily be uninstalled unless the supplier proves that the defect lies in the hardware of the good in question. This scope is justified by the increasing complexity of goods incorporating*** digital content. ***This*** Directive should ***also*** apply to the digital content supplied on a ***physical*** medium,

to those goods, including to obligations related to the delivery of goods, remedies in case of the failure to deliver and the nature of the contract under which those goods are supplied. The Directive is also without prejudice to the distribution right applicable to these goods under copyright law.

independently **of** whether it is sold at a distance or in face-to-face situations, so as to avoid fragmentation between the different distribution channels. The Directive 2011/83 should continue to apply to those goods, including to obligations related to the delivery of goods, remedies in case of the failure to deliver and the nature of the contract under which those goods are supplied. The Directive is also without prejudice to the distribution right applicable to these goods under copyright law.

Or. fr

**Amendment 167**  
**Marco Zullo**

**Proposal for a directive**  
**Recital 12**

*Text proposed by the Commission*

(12) In order to meet the expectations of consumers and ensure a clear-cut and simple legal framework for suppliers of digital content offered on a durable medium, in relation to conformity requirements and remedies available to consumers for non-conformity, this Directive should apply to goods ***such as DVDs and CDs, incorporating digital content in such a way that the goods function only as a carrier of the digital content.*** The Directive should apply to the digital content supplied on a durable medium, independently whether it is sold at a distance or in face-to-face situations, so as to avoid fragmentation between the different distribution channels. The Directive 2011/83 should continue to apply to those goods, including to obligations related to the delivery of goods, remedies in case of the failure to deliver and the nature of the contract under which those goods are supplied. The Directive is also

*Amendment*

(12) In order to meet the expectations of consumers and ensure a clear-cut and simple legal framework for suppliers of digital content offered on a durable medium, in relation to conformity requirements and remedies available to consumers for non-conformity, this Directive should apply to goods ***in which digital content is embedded and forms an integral part of the good and cannot easily be de-installed, or is necessary for the conformity of the good with the contract, unless the supplier proves that the defect lies in the hardware of the good.*** The Directive should apply to the digital content supplied on a durable medium, independently whether it is sold at a distance or in face-to-face situations, so as to avoid fragmentation between the different distribution channels. The Directive 2011/83 should continue to apply to those goods, including to obligations related to the delivery of goods, remedies



without prejudice to the distribution right applicable to these goods under copyright law.

in case of the failure to deliver and the nature of the contract under which those goods are supplied. The Directive is also without prejudice to the distribution right applicable to these goods under copyright law.

Or. it

#### **Amendment 168**

**Evelyne Gebhardt, Lucy Anderson, Christel Schaldemose, Liisa Jaakonsaari, Marlene Mizzi, Olga Sehnalová, Josef Weidenholzer, Anna Hedh, Marc Tarabella, Catherine Stihler, Evelyn Regner**

#### **Proposal for a directive**

##### **Recital 12**

###### *Text proposed by the Commission*

(12) In order to meet the expectations of consumers and ensure a clear-cut and simple legal framework for suppliers of digital content offered on a ***durable*** medium, in relation to conformity requirements and remedies available to consumers for non-conformity, this Directive should apply to goods such as ***DVDs and CDs, incorporating*** digital content in such a way that the goods ***function only as a carrier of the digital content. The*** Directive should apply to ***the*** digital content ***supplied on a durable medium, independently whether it is sold at a distance or in face-to-face situations, so as to avoid fragmentation between the different distribution channels. The*** Directive 2011/83 should continue to apply to those goods, including ***to*** obligations related to the delivery of goods, remedies in case of the failure to deliver and the nature of the contract under which those goods are supplied. ***The*** Directive is also without prejudice to the distribution right applicable to ***these*** goods under copyright law.

###### *Amendment*

(12) In order to meet the expectations of consumers and ensure a clear-cut and simple legal framework for suppliers of digital content offered on a ***tangible*** medium, in relation to conformity requirements and remedies available to consumers for non-conformity, this Directive should apply to ***digital content integrated in*** goods such as ***household appliances, toys and storage devices where that*** digital content ***is embedded*** in such a way that ***it operates as an integral part of*** the goods ***and cannot easily be un-installed by the consumer, unless the seller proves that the lack of conformity lies in the hardware of the good. To the same avail, this*** Directive should also apply to ***goods such as DVDs and CDs, incorporating*** digital content ***in such a way that the goods function only as a carrier of the digital content, unless the seller proves that the lack of conformity lies in the hardware of the good.*** Directive 2011/83 should continue to apply to those goods, including ***the*** obligations related to the delivery of goods, remedies in case of the failure to deliver and the nature of the contract under which those goods are

supplied. **This** Directive is also without prejudice to the distribution right applicable to **those** goods under copyright law.

Or. en

### *Justification*

*Alignment with Recital 13 of Arimont Report.*

## **Amendment 169**

**Róża Gräfin von Thun und Hohenstein, Tadeusz Zwiefka**

### **Proposal for a directive**

#### **Recital 12**

##### *Text proposed by the Commission*

(12) In order to meet the expectations of consumers and ensure a clear-cut and simple legal framework for suppliers of digital content offered on a durable medium, in relation to conformity requirements and remedies available to consumers for non-conformity, this Directive should apply to goods such as ***DVDs and CDs, incorporating*** digital content in such a way that the goods ***function only as a carrier of the digital content. The*** Directive should apply to ***the digital content supplied on a durable medium, independently whether it is sold at a distance or in face-to-face situations,*** so as to avoid fragmentation between the different distribution channels. The Directive 2011/83 should continue to apply to those goods, including to obligations related to the delivery of goods, remedies in case of the failure to deliver and the nature of the contract under which those goods are supplied. The Directive is also without prejudice to the distribution right applicable to these goods under copyright law.

##### *Amendment*

(12) In order to meet the expectations of consumers and ensure a clear-cut and simple legal framework for suppliers of digital content offered on a durable medium, in relation to conformity requirements and remedies available to consumers for non-conformity, this Directive should ***not*** apply to ***digital content integrated in*** goods such as ***household appliances or toys where the digital content is embedded*** in such a way that ***its functions are subordinate to the main functionalities of the goods and it operates as an integral part of the goods.*** ***This*** Directive should ***also not*** apply to ***goods like DVDs and CDs incorporating digital content in such a way that the goods function only as a carrier of the digital content,*** so as to avoid fragmentation between the different distribution channels. The Directive 2011/83 should continue to apply to those goods, including to obligations related to the delivery of goods, remedies in case of the failure to deliver and the nature of the contract under which those goods are supplied. The Directive is also without prejudice to the distribution right

applicable to these goods under copyright law.

Or. en

**Amendment 170**  
**Julia Reda**

**Proposal for a directive**  
**Recital 12**

*Text proposed by the Commission*

(12) In order to meet the expectations of consumers and ensure a clear-cut and simple legal framework for suppliers of digital content offered on a durable medium, in relation to conformity requirements and remedies available to consumers for non-conformity, this Directive should apply to goods such as DVDs and CDs, incorporating digital content in such a way that the goods function **only** as a carrier of the digital content. The Directive should apply to the digital content supplied on a durable medium, independently whether it is sold at a distance or in face-to-face situations, so as to avoid fragmentation between the different distribution channels. The Directive 2011/83 should continue to apply to those goods, including to obligations related to the delivery of goods, remedies in case of the failure to deliver and the nature of the contract under which those goods are supplied. The Directive is also without prejudice to the distribution right applicable to these goods under copyright law.

*Amendment*

(12) In order to meet the expectations of consumers and ensure a clear-cut and simple legal framework for suppliers of digital content offered on a durable medium, in relation to conformity requirements and remedies available to consumers for non-conformity, this Directive should apply to goods such as DVDs and CDs, incorporating digital content in such a way that the goods function as a carrier of the digital content. ***In order to ensure the application of a uniform legal framework to the sale of content on a durable medium and the provision of digital content in other forms, all contracts for the supply of digital content that are not long-term contracts such as streaming services should be treated as sales contracts.*** The Directive should apply to the digital content supplied on a durable medium, independently whether it is sold at a distance or in face-to-face situations, so as to avoid fragmentation between the different distribution channels. The Directive 2011/83 should continue to apply to those goods, including to obligations related to the delivery of goods, remedies in case of the failure to deliver and the nature of the contract under which those goods are supplied. The Directive is also without prejudice to the distribution right applicable to these goods under copyright law.

**Amendment 171****Daniel Dalton, Vicky Ford****Proposal for a directive****Recital 12***Text proposed by the Commission*

(12) In order to meet the expectations of consumers and ensure a clear-cut and simple legal framework for suppliers of digital content offered on a durable medium, in relation to conformity requirements and remedies available to consumers for non-conformity, this Directive should apply to goods such as DVDs and CDs, incorporating digital content in such a way that the goods function only as a carrier of the digital content. The Directive should apply to the digital content supplied on a ***durable*** medium, independently whether it is sold at a distance or in face-to-face situations, so as to avoid fragmentation between the different distribution channels. The Directive 2011/83 should continue to apply to those goods, including to obligations related to the delivery of goods, remedies in case of the failure to deliver and the nature of the contract under which those goods are supplied. The Directive is also without prejudice to the distribution right applicable to these goods under copyright law.

*Amendment*

(12) In order to meet the expectations of consumers and ensure a clear-cut and simple legal framework for suppliers of digital content offered on a durable medium, in relation to conformity requirements and remedies available to consumers for non-conformity, this Directive should apply to goods such as DVDs and CDs, incorporating digital content in such a way that the goods function only as a carrier of the digital content. The Directive should apply to the digital content supplied on a ***tangible*** medium, ***and to embedded digital content***, independently whether it is sold at a distance or in face-to-face situations, so as to avoid fragmentation between the different distribution channels. The Directive 2011/83 should continue to apply to those goods, including to obligations related to the delivery of goods, remedies in case of the failure to deliver and the nature of the contract under which those goods are supplied. The Directive is also without prejudice to the distribution right applicable to these goods under copyright law.

Or. en

*Justification*

*In the interests of consumer protection and clarity, the Digital Content Directive should apply to all digital content, including embedded digital content. This removes unnecessary confusion for consumers and suppliers over the status of digital content provided embedded within a tangible good.*

**Amendment 172**

**Lucy Anderson, Maria Grapini, Marc Tarabella, Evelyne Gebhardt, Marlene Mizzi, Marju Lauristin, Afzal Khan, Maria Arena, Mary Honeyball, Victor Negrescu**

**Proposal for a directive**

**Recital 12 a (new)**

*Text proposed by the Commission*

*Amendment*

***(12 a) Considering that the seller is liable towards the consumer for any lack of conformity of the digital content or service resulting from an act or omission of the seller or a third party it is justified that the seller should be able to pursue remedies against the responsible person earlier in the chain of transactions.***

Or. en

**Amendment 173**

**Lucy Anderson, Maria Grapini, Marc Tarabella, Afzal Khan, Maria Arena, Mary Honeyball, Victor Negrescu**

**Proposal for a directive**

**Recital 12 b (new)**

*Text proposed by the Commission*

*Amendment*

***(12 b) The European Commission considered in its Green Paper on Guarantees for Consumer Goods<sup>1a</sup> that in modern societies the confidence of consumers is bound with their faith in the manufacturers; Directive 1999/44/EC envisages more far-reaching provisions on producers' liability, notably by providing for producers' direct liability for non-conformity for which they are responsible.***

---

<sup>1a</sup> ***OJ C 338, 15.12.1993.***

Or. en

**Amendment 174**  
**Daniel Dalton, Vicky Ford**

**Proposal for a directive**  
**Recital 13**

*Text proposed by the Commission*

(13) In the digital economy, information about individuals is often and increasingly seen by market participants as having a value **comparable to money**. Digital content is often supplied not in exchange for a price but against counter-performance other than money i.e. by giving access to personal data or other data. Those specific business models apply in different forms in a considerable part of the market.

***Introducing a differentiation depending on the nature of the counter-performance would discriminate between different business models; it would provide an unjustified incentive for businesses to move towards offering digital content against data. A level playing field should be ensured. In addition, defects of the performance features of the digital content supplied against counter-performance other than money may have an impact on the economic interests of consumers.***

***Therefore the applicability of the rules of this Directive should not depend on whether a price is paid for the specific digital content in question.***

*Amendment*

(13) In the digital economy, information about individuals is often and increasingly seen by market participants as having a value. Digital content is often supplied not in exchange for a price but against counter-performance other than money i.e. by giving access to personal data or other data. Those specific business models apply in different forms in a considerable part of the market, ***diversifying consumer choice and encouraging innovation***. Defects of the performance features of the digital content supplied ***free of charge may, in some circumstances***, have an impact on the economic interests of consumers, ***however remedies*** should not ***be the same as for paid*** content.

Or. en

*Justification*

*It is not in the interests of consumers for their choice of digital content to be restricted by placing unnecessary burdens on European start-ups providing free content to users. Given the content is provided free of charge, consumers do not necessarily expect or require the same level of reliability as from paid-for content. Placing restrictive burdens on small free digital content providers would be a disproportionate and illogical response to issues consumers have in achieving redress for defects in paid-for digital content in some European countries.*

## Amendment 175

Kaja Kallas, Jean-Marie Cavada, Dita Charanzová

### Proposal for a directive

#### Recital 13

##### *Text proposed by the Commission*

(13) In the digital economy, information about individuals is often and increasingly seen by market participants as having a value comparable to money. Digital content is often supplied not in exchange for a price but against counter-performance other than money i.e. by giving access to personal data *or other data*. Those specific business models apply in different forms in a considerable part of the market. Introducing a differentiation depending on the nature of the counter-performance would discriminate between different business models; it would provide an unjustified incentive for businesses to move towards offering digital content against data. *A level playing field should be ensured*. In addition, defects of the performance features of the digital content supplied against counter-performance other than money may have an impact on the economic interests of consumers. Therefore the applicability of the rules of this Directive should not depend on whether a price is paid for the *specific* digital content in question.

##### *Amendment*

(13) In the digital economy, information about individuals is often and increasingly seen by market participants as having a value comparable to money. Digital content is often supplied not in exchange for a price but against counter-performance other than money, i.e. by giving access to personal data. Those specific business models apply in different forms in a considerable part of the market *and can provide value to consumers by reducing costs and increasing innovation and choice of digital content and services*. Introducing a differentiation depending on the nature of the counter-performance would discriminate between different business models; it would provide an unjustified incentive for businesses to move towards offering digital content against data. *On the other hand, providing the same rights to consumers when they supply personal data by way of counterperformance other than money might incentivise consumers to opt for the supply of digital content in exchange for the supply of personal data rather than the payment of money. There should therefore be a balance between the rights and remedies provided for*. In addition, defects of the performance features of the digital content supplied against counter-performance other than money may have an impact on the economic interests of consumers. Therefore, the applicability of the rules of this Directive should *as far as possible* not depend on whether a price is paid for the digital content in question.

Or. en

## Amendment 176

Eva Maydell, Róza Gräfin von Thun und Hohenstein

### Proposal for a directive

#### Recital 13

##### *Text proposed by the Commission*

(13) In the digital economy, information about individuals is often and increasingly seen by market participants as having a value comparable to money. Digital content *is* often supplied not in exchange for a price but against **counter-performance other than money** i.e. by giving access to **personal data or other data**. Those specific business models apply in different forms in a considerable part of the market. Introducing a differentiation depending on the nature of the counter-performance would discriminate between different business models; **it would** provide an unjustified incentive for businesses to move towards offering digital content **against data**. **A level playing field should be ensured**. In addition, defects of the performance features of the digital content supplied against **counter-performance other than money** may have an impact on the economic interests of consumers. **Therefore** the applicability of the rules of this Directive should not depend on whether a price is paid for the specific digital content in question.

##### *Amendment*

(13) In the digital economy, information about individuals is often and increasingly seen by market participants as having a value comparable to money. Digital content **or digital services are** often supplied not in exchange for a price but against **personal data**, i.e. by giving access to **it**. Those specific business models apply in different forms in a considerable part of the market. Introducing a differentiation depending on the nature of the counter-performance would discriminate between different business models, **which could** provide an unjustified incentive for businesses to move towards offering digital content **or digital services against data**. In addition, defects of the performance features of the digital content **or digital services** supplied against **personal data** may have an impact on the economic interests of consumers. **In order to ensure a level-playing field** the applicability of the rules of this Directive should not depend on whether a price is paid for the specific digital content **or digital service** in question.

Or. en

## Amendment 177

Antanas Guoga

### Proposal for a directive

#### Recital 13

##### *Text proposed by the Commission*

(13) In the digital economy, information about individuals is often and increasingly

##### *Amendment*

(13) In the digital economy, information about individuals is often and increasingly



seen by market participants as having a value comparable to money. Digital content is often supplied not in exchange for a price but against counter-performance other than money i.e. by giving access to personal data *or other data*. Those specific business models apply in different forms in a considerable part of the market. Introducing a differentiation depending on the nature of the counter-performance would discriminate between different business models; it would provide an unjustified incentive for businesses to move towards offering digital content against data. A level playing field should be ensured. In addition, defects of the performance features of the digital content supplied against counter-performance other than money may have an impact on the economic interests of consumers. Therefore the applicability of the rules of this Directive should not depend on whether a price is paid for the specific digital content in question.

seen by market participants as having a value comparable to money. Digital content is often supplied not in exchange for a price but against counter-performance other than money i.e. by giving access to personal data. Those specific business models apply in different forms in a considerable part of the market. Introducing a differentiation depending on the nature of the counter-performance would discriminate between different business models; it would provide an unjustified incentive for businesses to move towards offering digital content against data. A level playing field should be ensured. In addition, defects of the performance features of the digital content supplied against counter-performance other than money may have an impact on the economic interests of consumers. Therefore the applicability of the rules of this Directive should not depend on whether a price is paid for the specific digital content in question.

Or. en

## **Amendment 178**

### **Marco Zullo**

#### **Proposal for a directive**

#### **Recital 13**

##### *Text proposed by the Commission*

(13) In the digital economy, information about individuals is often and increasingly seen by market participants as having a value comparable to money. Digital content *is* often supplied not in exchange for a price but against counter-performance other than money i.e. by giving access to personal data or other data. Those specific business models apply in different forms in a considerable part of the market. Introducing a differentiation depending on the nature of the counter-performance

##### *Amendment*

(13) In the digital economy, information about individuals is often and increasingly seen by market participants as having a value comparable to money. Digital content *and digital services are* often supplied not in exchange for a price but against counter-performance other than money i.e. by giving access to personal data or other data *such as for example photographs, poems, songs or other items produced by the user*. Those specific business models apply in different forms in

would discriminate between different business models; it would provide an unjustified incentive for businesses to move towards offering digital content against data. A level playing field should be ensured. In addition, defects of the performance features of the digital content supplied against counter-performance other than money may have an impact on the economic interests of consumers. Therefore the applicability of the rules of this Directive should not depend on whether a price is paid for the specific digital content in question.

a considerable part of the market. Introducing a differentiation depending on the nature of the counter-performance would discriminate between different business models; it would provide an unjustified incentive for businesses to move towards offering digital content **and digital services** against data. A level playing field should be ensured. In addition, defects of the performance features of the digital content supplied against counter-performance other than money, **such as the supply of personal data**, may have an impact on the economic interests of consumers. Therefore the applicability of the rules of this Directive should not depend on whether a price is paid for the specific digital content **or digital service** in question.

Or. it

## Amendment 179 Daniel Buda

### Proposal for a directive Recital 13

#### *Text proposed by the Commission*

**(13)** In the digital economy, information about individuals is often and increasingly seen by market participants as having a value comparable to money. Digital content **is** often supplied not in exchange for a price but against counter-performance other than money i.e. by giving access to personal data or other data. Those specific business models apply in different forms in a considerable part of the market. Introducing a differentiation depending on the nature of the counter-performance would discriminate between different business models; **it would** provide an unjustified incentive for businesses to move towards offering digital content against data. A level playing field should

#### *Amendment*

**(13)** In the digital economy, information about individuals is often and increasingly seen by market participants as having a value comparable to money. Digital content **and digital services are** often supplied not in exchange for a price but against counter-performance other than money i.e. by giving access to personal data or other data. Those specific business models apply in different forms in a considerable part of the market. Introducing a differentiation depending on the nature of the counter-performance would discriminate between different business models, **and** provide an unjustified incentive for businesses to move towards offering digital content **or**

be ensured. In addition, defects of the performance features of the digital content supplied against counter-performance other than money may have an impact on the economic interests of consumers.

**Therefore** the applicability of the rules of this Directive should not depend on whether a price is paid for the specific digital content in question.

**digital services** against data. A level playing field should be ensured. In addition, defects of the performance features of the digital content **or digital services** supplied against counter-performance other than money may have an impact on the economic interests of consumers. **With a view to ensuring a level playing-field and a high level of consumer protection**, the applicability of the rules of this Directive should not depend on whether a price is paid for the specific digital content **or digital service** in question.

Or. ro

**Amendment 180**  
**Jean-Marie Cavada**

**Proposal for a directive**  
**Recital 13 a (new)**

*Text proposed by the Commission*

*Amendment*

**(13a) Consideration should be given to the fact that some business models are based partly or wholly on the processing and analysis of data which may offer value to consumers by reducing costs and increasing innovation and product diversity in the digital sector.**

Or. fr

**Amendment 181**  
**Evelyne Gebhardt, Virginie Rozière, Lucy Anderson, Christel Schaldemose, Liisa Jaakonsaari, Marlene Mizzi, Maria Grapini, Kerstin Westphal, Josef Weidenholzer, Anna Hedh, Marc Tarabella, Catherine Stihler, Evelyn Regner**

**Proposal for a directive**  
**Recital 13 a (new)**

*Text proposed by the Commission*

*Amendment*

*(13 a) The protection of natural persons in relation to processing of their personal data is a fundamental right. If a provision of this Directive conflicts with a provision of Regulation (EU) 2016/679<sup>1a</sup> the provision of that Regulation should take precedence over this Directive. The implementation and application of this Directive should be made in full compliance with the legal framework in the field of personal data and should supplement those rules where necessary in order to ensure a parallel protection of personal privacy and the dignity it seeks to secure through contract law. The exercise of rights granted under Regulation (EU) 2016/679 in a contractual context should not be put at risk by possible claims for damages or unjustified enrichment as a consequence of the exercise of those rights, which would go against the spirit of Recital 42 of Regulation (EU) 2016/679, which states that „(c)onsent should not be regarded as freely given if the data subject has no genuine or free choice or is unable to refuse or withdraw consent without detriment."*

---

*<sup>1a</sup> Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC.*

Or. en

#### *Justification*

*European constitutional law (Article 16 TFEU and Article 8 ECHR) as well as the constitutional traditions of the Member States provide sufficient normative grounds for regulating data commercialisation.*

**Amendment 182**  
**Axel Voss, Eva Maydell**

**Proposal for a directive**  
**Recital 13 a (new)**

*Text proposed by the Commission*

*Amendment*

**(13 a) The protection of natural persons in relation to processing of their personal data is a fundamental right. The application of this Directive is without prejudice to the protection of personal data as provided by Regulation (EU) 2016/679<sup>1a</sup> and Directive 2002/58/EC of the European Parliament and of the Council<sup>1b</sup>. In particular the consent given concerning the processing of personal data must be distinguished and separate from the agreement necessary for the conclusion of a contract.**

---

<sup>1a</sup> Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC, OJ L 119, 4.5.2016, p.1-88.

<sup>1b</sup> OJ L 201, 31.7.2002, p. 37–47.

Or. en

**Amendment 183**  
**Jean-Marie Cavada**

**Proposal for a directive**  
**Recital 13 b (new)**

*Text proposed by the Commission*

*Amendment*

**(13b) Regulation (EU) 2016/679 on the protection of personal data, however, affords the consumer the right to object to the use or assignment of personal data concerning him so that he can protect himself against various forms of**

*commercial prospection on the part of professionals using his personal data without his formal authorisation.*

Or. fr

**Amendment 184**

**Evelyne Gebhardt, Lucy Anderson, Liisa Jaakonsaari, Christel Schaldemose, Virginie Rozière, Kerstin Westphal, Maria Grapini, Josef Weidenholzer, Anna Hedh, Marc Tarabella, Evelyn Regner**

**Proposal for a directive**

**Recital 13 b (new)**

*Text proposed by the Commission*

*Amendment*

*(13 b) Terms not individually negotiated and that concern the processing of personal data or any other data provided by the consumer to the supplier in the context of the conclusion or performance of the contract, including data generated by the consumer's use of any digital content or services supplied, should be subject to unfairness control under the national provisions implementing Directive 93/13/EC and should not be considered as defining the main subject matter of the contract within the meaning of Article 4(2) of Directive 93/13/EC. Also, any standard term that would reduce or undermine any right afforded to the consumer as a data subject under Regulation (EU) 2016/679, including any term defining the functionality and other performance features of the digital content or digital service in a way that is not in conformity with Article 25 of Regulation (EU) 2016/679, should always be regarded as unfair within the meaning of Article 3(1) of Directive 93/13/EC.*

Or. en

## *Justification*

“Privacy by design” and “privacy by default” are two requirements reflected in Article 25 GDPR. In the Commission Proposal there is no link between data protection law and contract law. The reference to these further legal requirements in the Council draft might not be sufficient because Article 25 GDPR is addressed to controllers and regulates their behaviour, while it does not directly deal with product quality standards. It is therefore suggested to explicitly mention privacy by design and by default or in fact Article 25 GDPR as a product quality standard.

### **Amendment 185**

**Evelyne Gebhardt, Christel Schaldemose, Lucy Anderson, Liisa Jaakonsaari, Maria Grapini, Anna Hedh, Josef Weidenholzer, Marc Tarabella, Evelyn Regner**

### **Proposal for a directive**

#### **Recital 14**

*Text proposed by the Commission*

*Amendment*

**(14) As regards digital content supplied not in exchange for a price but against counter-performance other than money, this Directive should apply only to contracts where the supplier requests and the consumer actively provides data, such as name and e-mail address or photos, directly or indirectly to the supplier for example through individual registration or on the basis of a contract which allows access to consumers' photos. This Directive should not apply to situations where the supplier collects data necessary for the digital content to function in conformity with the contract, for example geographical location where necessary for a mobile application to function properly, or for the sole purpose of meeting legal requirements, for instance where the registration of the consumer is required for security and identification purposes by applicable laws. This Directive should also not apply to situations where the supplier collects information, including personal data, such as the IP address, or other automatically generated information such as information collected and transmitted by a cookie, without the** **deleted**

*consumer actively supplying it, even if the consumer accepts the cookie. It should also not apply to situations where the consumer is exposed to advertisements exclusively in order to gain access to digital content.*

Or. en

#### *Justification*

*Recital 14 contradicts the main declaration of Article 20 of the GDPR, which states in paragraph 1 that “the data subject shall have the right to receive the personal data concerning him or her, which he or she has provided to a controller (...).” This excludes any deviation of “active” or “passive” provision of data.*

#### **Amendment 186** **Vicky Ford**

#### **Proposal for a directive** **Recital 14**

##### *Text proposed by the Commission*

(14) As regards digital content supplied *not in exchange for a price but against counter-performance other than money*, this Directive should *apply only to contracts where the supplier requests and the consumer actively provides data, such as name and e-mail address or photos, directly or indirectly to the supplier for example through individual registration or on the basis of a contract which allows access to consumers' photos. This Directive should not apply to situations where the supplier collects data necessary for the digital content to function in conformity with the contract, for example geographical location where necessary for a mobile application to function properly, or for the sole purpose of meeting legal requirements, for instance where the registration of the consumer is required for security and identification purposes by applicable laws. This Directive should also not apply to situations where the*

##### *Amendment*

(14) As regards digital content supplied *to consumers free of charge*, this Directive should *provide for further technical and legal analysis to determine how consumers provide their data as a counter-performance, to be accessed as part of the future review process.*



*supplier collects information, including personal data, such as the IP address, or other automatically generated information such as information collected and transmitted by a cookie, without the consumer actively supplying it, even if the consumer accepts the cookie. It should also not apply to situations where the consumer is exposed to advertisements exclusively in order to gain access to digital content.*

Or. en

#### *Justification*

*Further research is needed to ascertain whether or not data should be used as a counter-performance and be included within the scope of the Directive.*

#### **Amendment 187**

**Daniel Dalton, Vicky Ford, Anneleen Van Bossuyt**

#### **Proposal for a directive**

#### **Recital 14**

##### *Text proposed by the Commission*

(14) *As regards digital content supplied not in exchange for a price but against counter-performance other than money, this Directive should apply only to contracts where the supplier requests and the consumer actively provides data, such as name and e-mail address or photos, directly or indirectly to the supplier for example through individual registration or on the basis of a contract which allows access to consumers' photos.* This Directive should not apply to situations where the supplier collects data necessary for the digital content to function in conformity with the contract, for example geographical location where necessary for a mobile application to function properly, or for the sole purpose of meeting legal requirements, for instance where the registration of the consumer is required for

##### *Amendment*

(14) This Directive should not apply to situations where the supplier collects data necessary for the digital content to function in conformity with the contract, for example geographical location where necessary for a mobile application to function properly, or for the sole purpose of meeting legal requirements, for instance where the registration of the consumer is required for security and identification purposes by applicable laws. This Directive should also not apply to situations where the supplier collects information, including personal data, such as the IP address, or other automatically generated information such as information collected and transmitted by a cookie, without the consumer actively supplying it, even if the consumer accepts the cookie. It should also not apply to situations where

security and identification purposes by applicable laws. This Directive should also not apply to situations where the supplier collects information, including personal data, such as the IP address, or other automatically generated information such as information collected and transmitted by a cookie, without the consumer actively supplying it, even if the consumer accepts the cookie. It should also not apply to situations where the consumer is exposed to advertisements exclusively in order to gain access to digital content.

the consumer is exposed to advertisements exclusively in order to gain access to digital content.

Or. en

### *Justification*

*It is not in the interests of consumers for their choice of digital content to be restricted by placing unnecessary burdens on European start-ups providing free content to users. Given the content is provided free of charge, consumers do not necessarily expect or require the same level of reliability as from paid-for content. Placing restrictive burdens on small free digital content providers would be a disproportionate and illogical response to issues consumers have in achieving redress for defects in paid-for digital content in some European countries.*

## **Amendment 188** **Julia Reda**

### **Proposal for a directive** **Recital 14**

#### *Text proposed by the Commission*

(14) As regards digital content supplied not in exchange for a price but against counter-performance other than money, this Directive should apply ***only*** to contracts where the ***supplier requests and the consumer actively provides data, such as name and e-mail address or photos, directly or indirectly to the supplier for example through individual registration or on the basis of a contract which*** allows access to ***consumers' photos***. This Directive should not apply to situations where the supplier collects data ***necessary*** for the digital content to function in

#### *Amendment*

(14) As regards digital content supplied not in exchange for a price but against counter-performance other than money, this Directive should ***also*** apply to contracts where the consumer ***provides personal data or any other data that may be used*** directly or indirectly ***by*** the supplier ***with a profit-making interest. This should also include contracts in which the consumer*** allows access to, ***and processing of his or her personal data by the supplier***. This Directive should not apply to situations where the supplier collects data ***that are exclusively used by***

conformity with the contract, for example geographical location where necessary for a mobile application to function properly, or for the sole purpose of meeting legal requirements, for instance where the registration of the consumer is required for security and identification purposes by applicable laws. ***This Directive should also not apply to situations where the supplier collects information, including personal data, such as the IP address, or other automatically generated information such as information collected and transmitted by a cookie, without the consumer actively supplying it, even if the consumer accepts the cookie. It should also not apply to situations where the consumer is exposed to advertisements exclusively in order to gain access to digital content.***

***the supplier in order*** for the digital content to function in conformity with the contract, ***including software updating***, for example geographical location where necessary for a mobile application to function properly ***or bug reports in order to identify defects in the software***, or for the sole purpose of meeting legal requirements, for instance where the registration of the consumer is required for security and identification purposes by applicable laws.

Or. en

**Amendment 189**  
**Axel Voss, Eva Maydell**

**Proposal for a directive**  
**Recital 14**

*Text proposed by the Commission*

(14) As regards digital content supplied not in exchange for a price but against ***counter-performance other than money***, this Directive should apply only to contracts where the supplier requests and the consumer ***actively provides data, such as name and e-mail address or photos***, directly or indirectly to the supplier for example through individual registration or on the basis of a contract which allows access to consumers' photos. This Directive should not apply to situations where the supplier collects ***data necessary for the digital content to function in conformity with the contract, for example geographical location where necessary for a mobile application to function properly,***

*Amendment*

(14) As regards digital content supplied not in exchange for a price but against ***personal data***, this Directive should apply only to contracts where the supplier requests and the consumer ***provides personal data*** directly or indirectly to the supplier for example through individual registration or on the basis of a contract which allows access to consumers' photos. This Directive should not apply to situations where the supplier collects personal data without the consumer supplying it, even if the consumer accepts the cookie. It should also not apply to situations where the consumer is exposed to advertisements exclusively in order to gain access to digital content.

*or for the sole purpose of meeting legal requirements, for instance where the registration of the consumer is required for security and identification purposes by applicable laws. This Directive should also not apply to situations where the supplier collects information, including personal data, such as the IP address, or other automatically generated information such as information collected and transmitted by a cookie, without the consumer actively supplying it, even if the consumer accepts the cookie. It should also not apply to situations where the consumer is exposed to advertisements exclusively in order to gain access to digital content.*

Or. en

## Amendment 190

Kaja Kallas, Dita Charanzová

### Proposal for a directive

#### Recital 14

#### *Text proposed by the Commission*

(14) As regards digital content supplied not in exchange for a price but against counter-performance other than money, **this** Directive should apply only to contracts where the supplier requests and the consumer actively provides data, such as name and e-mail address or photos, directly or indirectly to the supplier **for example** through individual registration or on the basis of a contract which allows access to consumers' photos. This Directive should not apply to situations where the supplier collects data necessary for the digital content to function in conformity with the contract, for example geographical location where necessary for a mobile application to function properly, or for the sole purpose of meeting legal requirements, for instance where the registration of the consumer is required for

#### *Amendment*

(14) As regards digital content supplied not in exchange for a price but against counter-performance other than money, **it should be made clear that the mere act of navigating the internet, as an open platform for information and communication, which often involves the passive collection of data, is not in itself enough for this Directive to apply.** This Directive should apply only to contracts where the supplier requests and the consumer actively provides **personal** data such as name and e-mail address or photos, directly or indirectly to the supplier, through individual registration or on the basis of a contract which allows access to consumers' **personal data such as** photos. This Directive should **therefore** not apply to situations where the supplier **requires no registration or identification to access or**

security and identification purposes by applicable laws. This Directive should *also* not apply to situations where the supplier collects information, including personal data, such as the IP address, or other automatically generated information such as information collected and transmitted by a cookie, without the consumer actively supplying it, even if the consumer accepts the cookie. It should also not apply to situations where the consumer is exposed to advertisements exclusively in order to gain access to digital content.

*use the digital content or service concerned, where the supplier* collects data necessary for the digital content to function in conformity with the contract, for example geographical location where necessary for a mobile application to function properly, or for the sole purpose of meeting legal requirements, for instance where the registration of the consumer is required for security and identification purposes by applicable laws. This Directive should *likewise* not apply to situations where the supplier collects information, including personal data, such as the IP address, or other automatically generated information such as information collected and transmitted by a cookie, without the consumer actively supplying it, even if the consumer accepts the cookie. It should also not apply to situations where the consumer is exposed to advertisements exclusively in order to gain access to digital content. *It should in addition be made clear that where a supplier requests consent to, and the consumer agrees to, the processing of the latter's personal data in accordance with Regulation (EU) 2016/679, this does not in itself constitute a contract under this Directive.*

Or. en

#### *Justification*

*The internet is not just related to e-commerce activities but also to education, freedom of speech and information and other purposes, it should therefore be made clear that the simple act of going on a webpage does not fall under the scope of this Directive. In addition the data relationship between a consumer and a supplier should not be confused with the contractual relationship as both give rise to different rights and obligations ;*

**Amendment 191**  
**Antanas Guoga**

**Proposal for a directive**  
**Recital 14**

(14) As regards digital content supplied not in exchange for a price but against counter-performance other than money, this Directive should apply only to contracts where the supplier requests and the consumer actively provides data, such as name and e-mail address or photos, directly or indirectly to the supplier for example through individual registration or on the basis of a contract which allows access to consumers' photos. This Directive should not apply to situations where the supplier collects data necessary for the digital content to function in conformity with the contract, for example geographical location where necessary for a mobile application to function properly, or for the sole purpose of meeting legal requirements, for instance where the registration of the consumer is required for security and identification purposes by applicable laws. This Directive should also not apply to situations where the supplier collects information, including personal data, such as the IP address, or other automatically generated information such as information collected and transmitted by a cookie, without the consumer actively supplying it, even if the consumer accepts the cookie. It should also not apply to situations where the consumer is exposed to advertisements exclusively in order to gain access to digital content.

(14) As regards digital content supplied not in exchange for a price but against counter-performance other than money, this Directive should apply only to contracts where the supplier requests and the consumer actively provides **personal** data, such as name and e-mail address or photos, directly or indirectly to the supplier for example through individual registration or on the basis of a contract which allows access to consumers' photos. This Directive should not apply to situations where the supplier collects data necessary for the digital content to function in conformity with the contract, for example geographical location where necessary for a mobile application to function properly, or for the sole purpose of meeting legal requirements, for instance where the registration of the consumer is required for security and identification purposes by applicable laws. This Directive should also not apply to situations where the supplier collects information, including personal data, such as the IP address, or other automatically generated information such as information collected and transmitted by a cookie, without the consumer actively supplying it, even if the consumer accepts the cookie. It should also not apply to situations where the consumer is exposed to advertisements exclusively in order to gain access to digital content.

Or. en

**Amendment 192**  
**Virginie Rozière**

**Proposal for a directive**  
**Recital 14**

(14) As regards digital content supplied ***not*** in exchange for a ***price but against*** counter-performance other than money, this Directive should apply ***only*** to contracts where the ***supplier requests and the consumer actively provides data, such as name and e-mail address or photos,*** directly or indirectly ***to the supplier for example through individual registration or on the basis of a contract which allows access to consumers' photos.*** This Directive should not apply to situations where the supplier collects data necessary for the ***digital content to function in conformity with the contract, for example geographical location where necessary for a mobile application to function properly, or for the sole purpose of meeting legal requirements, for instance where the registration of the consumer is required for security and identification purposes by applicable laws.*** This Directive should also not apply to situations where the supplier collects information, including personal data, such as the IP address, or other automatically generated information such as information collected and transmitted by a cookie, without the consumer actively supplying it, even if the consumer accepts the cookie. It should also not apply to situations where the consumer is exposed to advertisements exclusively in order to gain access to digital content.

(14) As regards digital content ***or a digital service*** supplied in exchange for a counter-performance other than money, this Directive should apply to contracts where the consumer provides ***personal or other data and the supplier*** directly or indirectly ***collects them.*** The Directive should not apply to situations where the supplier collects data necessary for the ***conclusion or performance of a contract for the supply of digital content or a digital service.***

Or. fr

**Amendment 193**  
**Marco Zullo**

**Proposal for a directive**  
**Recital 14**

*Text proposed by the Commission*

(14) As regards digital content supplied not in exchange for a price but against

*Amendment*

(14) As regards digital content ***or digital services*** supplied not in exchange for a

counter-performance other than money, this Directive should apply only to contracts where the supplier requests and the consumer actively provides data, such as name and e-mail address or photos, directly or indirectly to the supplier for example through individual registration or on the basis of a contract which allows access to consumers' photos. This Directive should not apply to situations where the supplier collects data necessary for the digital content to function in conformity with the contract, for example geographical location where necessary for a mobile application to function properly, or for the sole purpose of meeting legal requirements, for instance where the registration of the consumer is required for security and identification purposes by applicable laws. ***This Directive should also not apply to situations where the supplier collects information, including personal data, such as the IP address, or other automatically generated information such as information collected and transmitted by a cookie, without the consumer actively supplying it, even if the consumer accepts the cookie.*** It should also not apply to situations where the consumer is exposed to advertisements exclusively in order to gain access to digital content.

price but against counter-performance other than money, this Directive should apply only to contracts where the supplier requests and the consumer actively provides data, such as name and e-mail address or photos, directly or indirectly to the supplier for example through individual registration or on the basis of a contract which allows access to consumers' photos. This Directive should not apply to situations where the supplier collects data necessary for the digital content ***or digital service*** to function in conformity with the contract, for example geographical location where necessary for a mobile application to function properly, or for the sole purpose of meeting legal requirements, for instance where the registration of the consumer is required for security and identification purposes by applicable laws. It should also not apply to situations where the consumer is exposed to advertisements exclusively in order to gain access to digital content.

Or. it

## Amendment 194 Birgit Collin-Langen

### Proposal for a directive Recital 14

#### *Text proposed by the Commission*

(14) As regards digital content supplied not in exchange for a price but against counter-performance other than money, this Directive should apply only to contracts where the supplier requests and

#### *Amendment*

(14) As regards digital content supplied not in exchange for a price but against counter-performance other than money, this Directive should apply only to contracts where the supplier requests and



the consumer **actively** provides data, such as name and e-mail address or photos, directly or indirectly to the supplier for example through individual registration or on the basis of a contract which allows access to consumers' photos. This Directive should not apply to situations where the supplier collects data necessary for the digital content to function in conformity with the contract, for example geographical location where necessary for a mobile application to function properly, or for the sole purpose of meeting legal requirements, for instance where the registration of the consumer is required for security and identification purposes by applicable laws. This Directive should also not apply to situations where the supplier collects information, including personal data, such as the IP address, or other automatically generated information such as information collected and transmitted by a cookie, without the consumer actively supplying it, even if the consumer accepts the cookie. It should also not apply to situations where the consumer is exposed to advertisements exclusively in order to gain access to digital content.

the consumer provides data, such as name and e-mail address or photos, directly or indirectly to the supplier for example through individual registration or on the basis of a contract which allows access to consumers' photos. This Directive should not apply to situations where the supplier collects data necessary for the digital content to function in conformity with the contract, for example geographical location where necessary for a mobile application to function properly, or for the sole purpose of meeting legal requirements, for instance where the registration of the consumer is required for security and identification purposes by applicable laws. This Directive should also not apply to situations where the supplier collects information, including personal data, such as the IP address, or other automatically generated information such as information collected and transmitted by a cookie, without the consumer actively supplying it, even if the consumer accepts the cookie. It should also not apply to situations where the consumer is exposed to advertisements exclusively in order to gain access to digital content.

Or. de

## **Amendment 195**

### **Notis Marias**

#### **Proposal for a directive**

#### **Recital 14**

##### *Text proposed by the Commission*

(14) As regards digital content supplied not in exchange for a price but against counter-performance other than money, this Directive should apply only to contracts where the supplier requests and the consumer actively provides data, such as name and e-mail address or photos, directly **or indirectly** to the supplier for

##### *Amendment*

(14) As regards digital content supplied not in exchange for a price but against counter-performance other than money, this Directive should apply only to contracts where the supplier requests and the consumer actively provides data, such as name and e-mail address or photos, directly to the supplier for example through

example through individual registration ***or on the basis of a contract which allows access to consumers' photos***. This Directive should not apply to situations where the supplier collects data necessary for the digital content to function in conformity with the contract, for example geographical location where necessary for a mobile application to function properly, or for the sole purpose of meeting legal requirements, for instance where the registration of the consumer is required for security and identification purposes by applicable laws. This Directive should also not apply to situations where the supplier collects information, including personal data, such as the IP address, or other automatically generated information such as information collected and transmitted by a cookie, without the consumer actively supplying it, even if the consumer accepts the cookie. It should also not apply to situations where the consumer is exposed to advertisements exclusively in order to gain access to digital content.

individual registration. This Directive should not apply to situations where the supplier collects data necessary for the digital content to function in conformity with the contract, for example geographical location where necessary for a mobile application to function properly, or for the sole purpose of meeting legal requirements, for instance where the registration of the consumer is required for security and identification purposes by applicable laws. This Directive should also not apply to situations where the supplier collects information, including personal data, such as the IP address, or other automatically generated information such as information collected and transmitted by a cookie, without the consumer actively supplying it, even if the consumer accepts the cookie. It should also not apply to situations where the consumer is exposed to advertisements exclusively in order to gain access to digital content.

Or. el

## **Amendment 196**

### **Jean-Marie Cavada**

#### **Proposal for a directive**

#### **Recital 14**

##### *Text proposed by the Commission*

(14) As regards digital content supplied not in exchange for a price but against counter-performance other than money, this Directive should apply only to contracts where the supplier requests and the consumer actively provides data, such as name and e-mail address or photos, directly or indirectly to the supplier for example through individual registration or on the basis of a contract which allows access to consumers' photos. This Directive

##### *Amendment*

(14) As regards digital content supplied not in exchange for a price but against counter-performance other than money, this Directive should apply only to contracts where the supplier requests and the consumer actively provides data, such as name and e-mail address or photos, directly or indirectly to the supplier for example through individual registration or on the basis of a contract which allows access to consumers' photos. This Directive

should not apply to situations where the supplier collects data necessary for the digital content to function in conformity with the contract, for example geographical location where necessary for a mobile application to function properly, or for the sole purpose of meeting legal requirements, for instance where the registration of the consumer is required for security and identification purposes by applicable laws. This Directive should also not apply to situations where the supplier collects information, including personal data, such as the IP address, or other automatically generated information such as information collected and transmitted by a cookie, without the consumer actively supplying it, even if the consumer accepts the cookie. It should also not apply to situations where the consumer is exposed to advertisements exclusively in order to gain access to digital content.

should not apply to situations where the supplier collects data necessary for the digital content to function in conformity with the contract, for example geographical location where necessary for a mobile application to function properly, or for the sole purpose of meeting legal requirements, for instance where the registration of the consumer is required for security and identification purposes by applicable laws. This Directive should also not apply to situations where the supplier collects information, including personal data, such as the IP address, or other automatically generated information such as information collected and transmitted by a cookie, without the consumer actively supplying it, even if the consumer accepts the cookie. It should also not apply to situations where the consumer is exposed to advertisements exclusively in order to gain access to digital content. ***In the cases listed above, the supplier may not in any circumstances use the data communicated to him for any other commercial purpose on behalf of a third party, in accordance with Regulation (EU) 2016/679.***

Or. fr

**Amendment 197**  
**Axel Voss, Eva Maydell**

**Proposal for a directive**  
**Recital 14 a (new)**

*Text proposed by the Commission*

*Amendment*

***(14 a) A contract term that concerns the processing of personal data provided by the consumer to the supplier or collected by the supplier or a third party in the interest of the supplier in the context of the conclusion or performance of the contract, which would violate any right which has been afforded to the consumer as a data subject under Regulation (EU)***

**2016/679 of the European Parliament and of the Council (Data Protection Regulation)<sup>1a</sup>, should not be binding. The contract should continue to bind the parties [upon those terms] if it is capable of continuing in existence without the non-binding term.**

---

**<sup>1a</sup> Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protecting of natural persons with regard to the processing of personal data and the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation), OJ L 119, 4.5.2016, p. 1-88.**

Or. en

**Amendment 198**  
**Kaja Kallas, Dita Charanzová**

**Proposal for a directive**  
**Recital 15**

*Text proposed by the Commission*

(15) Content ***generated by consumers should be treated on the same basis as any other digital content*** that the consumer provides or stores throughout the ***period of*** duration of the contract such as music and video files, pictures, games or applications. ***Content generated by consumers comprises*** a wide range of ***examples including*** digital images, video and audio files, blogs, discussion forums, text-based collaboration formats, posts, chats, tweets, logs, podcasting, content created on mobile devices, content created in the context of online virtual environments, ratings and collections of links referring to online content.

*Amendment*

(15) Content that the consumer provides or stores throughout the duration of the contract, such as music and video files, pictures, games or applications, ***can be of a certain value to consumers if it is portable to another service. It can also comprise*** a wide range of ***things such as*** digital images, video and audio files, blogs, discussion forums, text-based collaboration formats, posts, chats, tweets, logs, podcasting, content created on mobile devices, content created in the context of online virtual environments, ratings and collections of links referring to online content.

Or. en

## Amendment 199

Julia Reda

### Proposal for a directive

#### Recital 15

*Text proposed by the Commission*

(15) Content generated by consumers should be treated on the same basis as any other digital content that the consumer provides or stores throughout the period of duration of the contract such as music and video files, pictures, games or applications. Content generated by consumers comprises a wide range of examples including digital images, video and audio files, blogs, discussion forums, text-based collaboration formats, posts, chats, tweets, logs, podcasting, content created on mobile devices, content created in the context of online virtual environments, ratings and collections of links referring to online content.

*Amendment*

(15) Content generated by consumers should be treated on the same basis as any other digital content that the consumer provides or stores throughout the period of duration of the contract such as music and video files, pictures, games or applications, ***unless this content is co-created with other consumers who should be allowed to continue using the service.*** Content generated by consumers comprises a wide range of examples including digital images, video and audio files, blogs, discussion forums, text-based collaboration formats, posts, chats, tweets, logs, podcasting, content created on mobile devices, content created in the context of online virtual environments, ratings and collections of links referring to online content.

Or. en

## Amendment 200

Notis Marias

### Proposal for a directive

#### Recital 15

*Text proposed by the Commission*

(15) Content generated by consumers should be treated on the same basis as any other digital content that the consumer provides or stores throughout the period of duration of the contract such as music and video files, pictures, games or applications. Content generated by consumers comprises

*Amendment*

(15) Content generated by consumers should be treated on the same basis as any other digital content that the consumer provides or stores throughout the period of duration of the contract such as music and video files, pictures, games or applications ***and be subject to the principles of***

a wide range of examples including digital images, video and audio files, blogs, discussion forums, text-based collaboration formats, posts, chats, tweets, logs, podcasting, content created on mobile devices, content created in the context of online virtual environments, ratings and collections of links referring to online content.

***personal data protection***. Content generated by consumers comprises a wide range of examples including digital images, video and audio files, blogs, discussion forums, text-based collaboration formats, posts, chats, tweets, logs, podcasting, content created on mobile devices, content created in the context of online virtual environments, ratings and collections of links referring to online content.

Or. el

**Amendment 201**  
**Antanas Guoga**

**Proposal for a directive**  
**Recital 15**

*Text proposed by the Commission*

(15) ***Content*** generated by consumers should be treated on the same basis as any other digital content that the consumer provides or stores throughout the period of duration of the contract such as music and video files, pictures, games or applications. ***Content*** generated by consumers comprises a wide range of examples including digital images, video and audio files, blogs, discussion forums, text-based collaboration formats, posts, chats, tweets, logs, podcasting, content created on mobile devices, content created in the context of online virtual environments, ratings and collections of links referring to online content.

*Amendment*

(15) ***Digital*** content generated by consumers should be treated on the same basis as any other digital content that the consumer provides or stores throughout the period of duration of the contract such as music and video files, pictures, games or applications. ***Digital*** content generated by consumers comprises a wide range of examples including digital images, video and audio files, blogs, discussion forums, text-based collaboration formats, posts, chats, tweets, logs, podcasting, content created on mobile devices, content created in the context of online virtual environments, ratings and collections of links referring to online content.

Or. en

**Amendment 202**  
**Victor Negrescu**

**Proposal for a directive**

**Recital 15 a (new)**

*Text proposed by the Commission*

*Amendment*

***(15 a) Suppliers of video files, pictures, software applications and other digital content should provide assurances with regard to the safety of digital content they provide, offering a high level of protection for consumers against malware.***

Or. en

**Amendment 203**

**Victor Negrescu**

**Proposal for a directive**

**Recital 15 b (new)**

*Text proposed by the Commission*

*Amendment*

***(15 b) Suppliers of video files, pictures, software applications and other digital content should provide immediate and active technical support to help and advise consumers.***

Or. en

**Amendment 204**

**Victor Negrescu**

**Proposal for a directive**

**Recital 15 c (new)**

*Text proposed by the Commission*

*Amendment*

***(15 c) Suppliers should provide consumers with information regarding the updating cycles of the offered digital content or service, and for online applications consumers should have a 30 days trial period from the day the update appeared to use the product or service without updating it.***

**Amendment 205****Marco Zullo****Proposal for a directive****Recital 16***Text proposed by the Commission*

(16) In order to ensure a common set of rights for consumers and a level playing field for business, consumers should have the same remedies for digital content which *is* not in conformity with the contract irrespective of the way the content has been developed. Consequently the Directive should apply to contracts for the development of digital content tailor made to the specific requirements of the consumer including tailor made software. This Directive should also apply to the supply of visual modelling files required in the context of 3D printing. However this Directive should not regulate goods produced with the use of 3D printing technology *or the damage caused to them*.

*Amendment*

(16) In order to ensure a common set of rights for consumers and a level playing field for business, consumers should have the same remedies for digital content *or services* which *are* not in conformity with the contract irrespective of the way the content has been developed. Consequently the Directive should apply to contracts for the development of digital content *and services* tailor made to the specific requirements of the consumer including tailor made software. This Directive should also apply to the supply of visual modelling files required in the context of 3D printing. However this Directive should not regulate goods produced with the use of 3D printing technology.

Or. it

**Amendment 206****Julia Reda****Proposal for a directive****Recital 16***Text proposed by the Commission*

(16) In order to ensure a common set of rights for consumers and a level playing field for business, consumers should have the same remedies for digital content which is not in conformity with the contract irrespective of the way the content has been developed. Consequently the Directive should apply to contracts for the

*Amendment*

(16) In order to ensure a common set of rights for consumers and a level playing field for business, consumers should have the same remedies for digital content which is not in conformity with the contract irrespective of the way the content has been developed. Consequently the Directive should apply to contracts for the



development of digital content tailor made to the specific requirements of the consumer including tailor made software. This Directive should also apply to the supply of visual modelling files required in the context of 3D printing. However this Directive should not regulate goods produced with the use of 3D printing technology or the damage caused to them.

development of digital content tailor made to the specific requirements of the consumer including tailor made software. This Directive should also apply to the supply of visual modelling files required in the context of 3D printing. However this Directive should not regulate goods produced with the use of 3D printing technology or the damage caused to them *if these products do not include any elements of embedded digital content themselves.*

Or. en

**Amendment 207**  
**Daniel Buda**

**Proposal for a directive**  
**Recital 16**

*Text proposed by the Commission*

**(16)** In order to ensure a common set of rights for consumers and a level playing field for **business**, consumers should have the same remedies for digital content which **is** not in conformity with the contract irrespective of the way the content has been developed. Consequently the Directive should apply to contracts for the development of digital content ***tailor made*** to the specific requirements of the consumer including ***tailor made*** software. This Directive should also apply to the supply of visual modelling files required in the context of 3D printing. However this Directive should not regulate goods produced with the use of 3D printing technology or the damage caused to them.

*Amendment*

**(16)** In order to ensure a ***high and uniform level of consumer protection, through the introduction of a*** common set of rights for consumers and a ***business-friendly environment, by guaranteeing a*** level playing field for ***businesses***, consumers should have the same remedies for digital content ***or digital services*** which ***are*** not in conformity with the contract, irrespective of the way ***in which*** the content has been developed. Consequently, the Directive should apply to contracts for the development of digital content ***or digital services tailor-made*** to the specific requirements of the consumer, including ***tailor-made*** software. This Directive should also apply to the supply of visual modelling files required in the context of 3D printing. However this Directive should not regulate goods produced with the use of 3D printing technology or the damage caused to them.

**Amendment 208**  
**Jean-Marie Cavada**

**Proposal for a directive**  
**Recital 17**

*Text proposed by the Commission*

(17) Digital content is highly relevant in the context of the Internet of Things. However it is opportune to address specific issues of liability related to the Internet of Things, including the liability for data and machine-to-machine contracts, in a separate way.

*Amendment*

(17) Digital content is highly relevant in the context of the Internet of Things. However it is opportune to address specific issues of liability related to the Internet of Things, including the liability for data and machine-to-machine contracts, in a separate way. ***The information generated by these flows should be covered by data protection standards. With a view to the protection of natural persons, due account should therefore be taken of digital developments. It is essential, therefore, that this Directive should address the security concerns linked to exchanges of information and data provided by the Internet of Things.***

**Amendment 209**  
**Notis Marias**

**Proposal for a directive**  
**Recital 17**

*Text proposed by the Commission*

(17) Digital content is highly relevant in the context of the Internet of Things. However it is opportune to address specific issues of liability related to the Internet of Things, including the liability for data and machine-to-machine contracts, in a separate way.

*Amendment*

(17) Digital content is highly relevant in the context of the Internet of Things, ***thereby contributing to the smooth functioning of the internal market.*** However it is opportune to address specific issues of liability related to the Internet of Things, including the liability for data and

machine-to-machine contracts, in a separate way.

Or. el

#### **Amendment 210**

**Marco Zullo**

#### **Proposal for a directive**

##### **Recital 17**

*Text proposed by the Commission*

(17) Digital content **is** highly relevant in the context of the Internet of Things. However it is opportune to address specific issues of liability related to the Internet of Things, including the liability for data and machine-to-machine contracts, in a separate way.

*Amendment*

(17) Digital content **and services are** highly relevant in the context of the Internet of Things. However it is opportune to address specific issues of liability related to the Internet of Things, including the liability for data and machine-to-machine contracts, in a separate way.

Or. it

#### **Amendment 211**

**Axel Voss, Eva Maydell**

#### **Proposal for a directive**

##### **Recital 18**

*Text proposed by the Commission*

(18) Contracts may include general terms and conditions of the supplier that need to be accepted by the consumer. For some digital **content**, suppliers often describe the service and measurable service targets in a service level agreement. These service level agreements are generally appended to the main contract and form an important component of the contractual relationship between the supplier and the consumer. They should be covered **by the definition of a contract under this** Directive, and should thus comply with the rules laid down therein.

*Amendment*

(18) Contracts may include general terms and conditions of the supplier that need to be accepted by the consumer. For some digital **services**, suppliers often describe the service and measurable service targets in a service level agreement. These service level agreements are generally appended to the main contract and form an important component of the contractual relationship between the supplier and the consumer. They should be covered this Directive, and should thus comply with the rules laid down therein.

**Amendment 212****Julia Reda****Proposal for a directive****Recital 18***Text proposed by the Commission*

(18) Contracts may include general terms and conditions of the supplier that need to be accepted by the consumer. For some digital content, suppliers often describe the service and measurable service targets in a service level agreement. These service level agreements are generally appended to the main contract and form an important component of the contractual relationship between the supplier and the consumer. They should be covered by the definition of a contract under this Directive, and should thus comply with the rules laid down therein.

*Amendment*

(18) Contracts may include general terms and conditions of the supplier that need to be accepted by the consumer. For some digital content, suppliers often describe the service and measurable service targets in a service level agreement. These service level agreements are generally appended to the main contract and form an important component of the contractual relationship between the supplier and the consumer. They should be covered by the definition of a contract under this Directive, and should thus comply with the rules laid down therein. ***In cases where consent to the processing of personal data is given as a counter-performance other than money, the contract should contain the information about the processing prescribed by Regulation (EU) 2016/679 of the European Parliament and of the Council, but that information should be clearly distinguishable from other elements of the contract. In addition, easily understandable icons should illustrate the main elements of the processing of personal data.***

**Amendment 213****Eva Maydell****Proposal for a directive****Recital 18 a (new)**

***(18 a) Contract terms included in a contract for the supply of digital content should respect statutory rights under Union legislation, such as the rights afforded to the consumer as a data subject under Regulation (EU) 2016/679. The consequences on the contract of the lack of compliance with statutory rights should be regulated at national level.***

Or. en

#### **Amendment 214**

**Antanas Guoga**

#### **Proposal for a directive**

##### **Recital 19**

*Text proposed by the Commission*

(19) This Directive should apply only to those services whose main subject matter is providing digital content. Therefore, the Directive should not apply to services, which are performed personally by the supplier and where the digital means are only used for access or delivery purposes, such as a translation offered by a person or other professional advice services where only the output of the service is delivered to the consumer by digital means.

*Amendment*

(19) This Directive should apply only to those services whose main subject matter is providing digital content. Therefore, the Directive should not apply to services, which are performed personally by the supplier and where the digital means are only used for access or delivery purposes, such as a translation offered by a person or other professional advice services where only the output of the service is delivered to the consumer by digital means ***and the supplier does not further process them.***

Or. en

#### **Amendment 215**

**Axel Voss, Eva Maydell**

#### **Proposal for a directive**

##### **Recital 19**

*Text proposed by the Commission*

*Amendment*

(19) This Directive should apply only to those services whose main subject matter is providing digital **content**. Therefore, the Directive should not apply to services, which are performed personally by the supplier and where the digital means are only used for access or delivery purposes, such as a translation offered by a person or other professional advice services where only the output of the service is delivered to the consumer by digital means.

(19) This Directive should apply only to those services whose main subject matter is providing digital **services**. Therefore, the Directive should not apply to services, which are performed personally by the supplier and where the digital means are only used for access or delivery purposes, such as a translation offered by a person or other professional advice services where only the output of the service is delivered to the consumer by digital means.

Or. en

**Amendment 216**  
**Axel Voss, Eva Maydell**

**Proposal for a directive**  
**Recital 20**

*Text proposed by the Commission*

(20) Where, under a contract or a bundle of contracts, the supplier offers digital content in combination with other services such as telecommunication services or goods, which do not function merely as a carrier of the digital content, this Directive should only apply to the digital content component of such a bundle. The other elements should be governed by the applicable law.

*Amendment*

(20) Where, under a contract or a bundle of contracts, the supplier offers digital content **or digital services** in combination with other services such as telecommunication services or goods, which do not function merely as a carrier of the digital content **or digital service**, this Directive should only apply to the digital content **or digital service** component of such a bundle. The other elements should be governed by the applicable law.

Or. en

**Amendment 217**  
**Notis Marias**

**Proposal for a directive**  
**Recital 21**

*Text proposed by the Commission*

*Amendment*

(21) This Directive should *not deal with copyright and other intellectual property related aspects of the supply of digital content. Therefore it should be without prejudice to any rights and obligations according to* copyright law and other intellectual property laws.

(21) This Directive should *be implemented with due regard for* rights and obligations *under* copyright law and other intellectual property laws.

Or. el

**Amendment 218**  
**Julia Reda, Kaja Kallas**

**Proposal for a directive**  
**Recital 21**

*Text proposed by the Commission*

(21) This Directive should not deal with copyright and other intellectual property related aspects of the supply of digital content. Therefore it should be without prejudice to any rights and obligations according to copyright law and other intellectual property laws.

*Amendment*

(21) This Directive should not deal with copyright and other intellectual property related aspects of the supply of digital content. Therefore it should be without prejudice to any rights and obligations according to copyright law and other intellectual property laws. ***Consequently, while the provision of content under a free or open licence, such as free and open source software, is treated as a contract in several jurisdictions, the adherence to the terms of the licence, such as the condition to distribute any copies or modifications of the content under the same licence terms, should not be considered as a counter-performance in the meaning of this Directive, because these conditions are merely meant to guarantee the freedom to share and modify content to all subsequent users, without constituting a specific benefit to the supplier. Free or open licences should therefore not give rise to obligations under this Directive, even if they can be considered to be a contract.***

Or. en

**Amendment 219**  
**Axel Voss, Eva Maydell**

**Proposal for a directive**  
**Recital 21**

*Text proposed by the Commission*

(21) This Directive should not deal with copyright and other intellectual property related aspects of the supply of digital content. Therefore it should be without prejudice to any rights and obligations according to copyright law and other intellectual property laws.

*Amendment*

(21) This Directive should not deal with copyright and other intellectual property related aspects of the supply of digital content ***or digital services***. Therefore it should be without prejudice to any rights and obligations according to copyright law and other intellectual property laws.

Or. en

**Amendment 220**  
**Jean-Marie Cavada**

**Proposal for a directive**  
**Recital 21**

*Text proposed by the Commission*

(21) This Directive should not deal with ***copyright and other intellectual property related*** aspects of the supply of digital content. Therefore it should be without prejudice to any rights and obligations according to copyright law and other intellectual property laws.

*Amendment*

(21) This Directive should not deal with aspects of the supply of digital content ***covered by copyright and other intellectual property rights***. Therefore it should be without prejudice to any rights and obligations according to copyright law and other intellectual property laws.

Or. fr

**Amendment 221**  
**Eva Maydell**

**Proposal for a directive**  
**Recital 22**

*Text proposed by the Commission*

(22) ***The protection of individuals with regard to the processing of personal data***

*Amendment*

***deleted***



*is governed by Directive 95/46/EC of the European Parliament and of the Council<sup>31</sup> and by Directive 2002/58/EC of the European Parliament and of the Council<sup>32</sup> which are fully applicable in the context of contracts for the supply of digital content. Those Directives already establish a legal framework in the field of personal data in the Union. The implementation and application of this Directive should be made in full compliance with that legal framework.*

---

<sup>31</sup> OJ L 281, 23/11/1995, p. 31 - 50) [to be replaced by the General Data Protection Regulation, once adopted].

<sup>32</sup> OJ L 201, 31.7.2002, p. 37–47.

Or. en

## Amendment 222 Julia Reda

### Proposal for a directive Recital 22

*Text proposed by the Commission*

(22) The *protection of individuals with regard to* the processing of personal data *is governed by Directive 95/46/EC of the European Parliament and of the Council<sup>31</sup> and by Directive 2002/58/EC of the European Parliament and of the Council<sup>32</sup> which are fully applicable in the context of contracts for the supply of digital content.* Those *Directives* already establish a legal framework in the field of personal data in the Union. The implementation and application of this Directive should be made in full compliance with that legal framework.

*Amendment*

(22) The *pursuit of activities falling within the scope of this Directive involves* the processing of personal data. *This Directive is without prejudice to the rules of Union law applicable to the processing of personal data within the Union, in particular Regulation (EU) 2016/679<sup>31</sup> and Directive 2002/58/EC of the European Parliament and of the Council<sup>32</sup>, which govern the processing of personal data carried out in the Member States under the supervision of the Member States' competent authorities, in particular the public independent authorities designated by the Member States.* Those *legal acts* already establish a legal framework in the field of personal data in the Union *and are fully applicable in the context of contracts*

*for the supply of digital content.* The implementation and application of this Directive should be made in full compliance with that legal framework.

---

<sup>31</sup> OJ L 281, 23/11/1995, p. 31 - 50) [to be replaced by the General Data Protection Regulation, once adopted].

<sup>32</sup> OJ L 201, 31.7.2002, p. 37–47.

---

<sup>31</sup> OJ L 119, 4.5.2016, p. 1-88.

<sup>32</sup> OJ L 201, 31.7.2002, p. 37–47.

Or. en

## Amendment 223

Marco Zullo

### Proposal for a directive

#### Recital 22

*Text proposed by the Commission*

(22) The protection of individuals with regard to the processing of personal data is governed by Directive 95/46/EC of the European Parliament and of the Council<sup>31</sup> and by Directive 2002/58/EC of the European Parliament and of the Council<sup>32</sup> which are fully applicable in the context of contracts for the supply of digital content. Those Directives already establish a legal framework in the field of personal data in the Union. The implementation and application of this Directive should be made in full compliance with that legal framework.

---

<sup>31</sup> OJ L 281, 23/11/1995, p. 31 - 50) [to be replaced by the General Data Protection Regulation, once adopted].

<sup>32</sup> OJ L 201, 31.7.2002, p. 37–47.

*Amendment*

(22) The protection of individuals with regard to the processing of personal data is ***provided for by Article 8 of the Charter of Fundamental Rights of the European Union and*** governed by Directive 95/46/EC of the European Parliament and of the Council<sup>31</sup> and by Directive 2002/58/EC of the European Parliament and of the Council<sup>32</sup> which are fully applicable in the context of contracts for the supply of digital content. Those Directives already establish a legal framework in the field of personal data in the Union. The implementation and application of this Directive should be made in full compliance with that legal framework.

---

<sup>31</sup> OJ L 281, 23/11/1995, p. 31 - 50) [to be replaced by the General Data Protection Regulation, once adopted].

<sup>32</sup> OJ L 201, 31.7.2002, p. 37–47.

Or. it

## Amendment 224

Virginie Rozière

### Proposal for a directive

#### Recital 22

##### *Text proposed by the Commission*

(22) The protection of individuals with regard to the processing of personal data is governed by Directive 95/46/EC of the European Parliament and of the Council<sup>31</sup> and by Directive 2002/58/EC of the European Parliament and of the Council<sup>32</sup> which are fully applicable in the context of contracts for the supply of digital content. **Those** Directives already establish a legal framework in the field of personal data in the Union. The implementation and application of this Directive should be made in full compliance with that legal framework.

---

<sup>31</sup> OJ L 281, 23/11/1995, p. 31 - 50) [to be replaced by the General Data Protection Regulation, once adopted].

<sup>32</sup> OJ L 201, 31.7.2002, p. 37–47.

##### *Amendment*

(22) The protection of individuals with regard to the processing of personal data is governed by Directive 95/46/EC of the European Parliament and of the Council<sup>31</sup>, **by Regulation (EU) 2016/679 of the European Parliament and of the Council** and by Directive 2002/58/EC of the European Parliament and of the Council<sup>32</sup>, which are fully applicable in the context of contracts for the supply of digital content. **The aforementioned Regulation and** Directives already establish a legal framework in the field of personal data in the Union. The implementation and application of this Directive should be made in full compliance with that legal framework.

---

<sup>31</sup> OJ L 281, 23/11/1995, p. 31 - 50) [to be replaced by the General Data Protection Regulation, once adopted].

<sup>32</sup> OJ L 201, 31.7.2002, p. 37–47.

Or. fr

## Amendment 225

Daniel Dalton, Vicky Ford

### Proposal for a directive

#### Recital 22

##### *Text proposed by the Commission*

(22) The protection of individuals with regard to the processing of personal data is governed by Directive 95/46/EC of the

##### *Amendment*

(22) The protection of individuals with regard to the processing of personal data is governed by Directive 95/46/EC of the

European Parliament and of the Council<sup>31</sup> and by Directive 2002/58/EC of the European Parliament and of the Council<sup>32</sup> which are fully applicable in the context of contracts for the supply of digital content. Those Directives already establish a legal framework in the field of personal data in the Union. The implementation and application of this Directive should be made in full compliance with that legal framework.

---

<sup>31</sup> OJ L 281, 23/11/1995, p. 31 - 50) [to be replaced by the General Data Protection Regulation, once adopted].

<sup>32</sup> OJ L 201, 31.7.2002, p. 37–47.

European Parliament and of the Council<sup>31</sup>, ***by Regulation (EU) 2016/679 of the European Parliament and of the Council*** and by Directive 2002/58/EC of the European Parliament and of the Council<sup>32</sup> which are fully applicable in the context of contracts for the supply of digital content. Those Directives already establish a legal framework in the field of personal data in the Union. The implementation and application of this Directive should be made in full compliance with that legal framework.

---

<sup>31</sup> OJ L 281, 23/11/1995, p. 31 - 50) [to be replaced by the General Data Protection Regulation, once adopted].

<sup>32</sup> OJ L 201, 31.7.2002, p. 37–47.

Or. en

## **Amendment 226**

### **Jean-Marie Cavada**

#### **Proposal for a directive**

#### **Recital 23**

##### *Text proposed by the Commission*

(23) There are various ways for digital content to reach consumers. It is opportune to set simple and clear rules as to the modalities and the time for performing the supplier's main contractual obligation to supply digital content to the consumer. Considering that the supplier is not in principle responsible for acts or omissions of an internet provider or an electronic platform which the consumer selected for receiving the digital content, it should be sufficient for the supplier to supply the digital content to this third party. With regard to the time of supply, in line with market practices and technical possibilities, the digital content should be ***supplied immediately, unless the parties decide to***

##### *Amendment*

(23) There are various ways for digital content to reach consumers. It is opportune to set simple and clear rules as to the modalities and the time for performing the supplier's main contractual obligation to supply digital content to the consumer. Considering that the supplier is not in principle responsible for acts or omissions of an internet provider or an electronic platform which the consumer selected for receiving the digital content, it should be sufficient for the supplier to supply the digital content to this third party. With regard to the time of supply, in line with market practices and technical possibilities, the digital content should be ***able to adapt to a technical problem encountered by a***

*agree otherwise in order to cater for other supply models.*

*third party (a content resale platform, for example) or to other supply models. If the supplier acts as a distributor for a creator of digital content, it must be clear for the consumer that he is entitled only to reimbursement or a replacement, but on no account to repair, a process which can be dealt with only by the creator.*

Or. fr

**Amendment 227**  
**Marco Zullo**

**Proposal for a directive**  
**Recital 23**

*Text proposed by the Commission*

(23) There are various ways for digital content to reach consumers. It is opportune to set simple and clear rules as to the modalities and the time for performing the supplier's main contractual obligation to supply digital content to the consumer. Considering that the supplier is not in principle responsible for acts or omissions of an internet provider or an electronic platform which the consumer selected for receiving the digital content, it should be sufficient for the supplier to supply the digital content to this third party. With regard to the time of supply, in line with market practices and technical possibilities, the digital content should be supplied ***immediately***, unless the parties decide to agree otherwise in order to cater for other supply models.

*Amendment*

(23) There are various ways for digital content ***and digital services*** to reach consumers. It is opportune to set simple and clear rules as to the modalities and the time for performing the supplier's main contractual obligation to supply digital content to the consumer. Considering that the supplier is not in principle responsible for acts or omissions of an internet provider or an electronic platform which the consumer selected for receiving the digital content, it should be sufficient for the supplier to supply the digital content ***or service*** to this third party. With regard to the time of supply, in line with market practices and technical possibilities, the digital content ***or service*** should be supplied ***within one month from the conclusion of the contract***, unless the parties decide to agree otherwise in order to cater for other supply models.

Or. it

**Amendment 228**  
**Daniel Buda**

**Proposal for a directive**  
**Recital 23**

*Text proposed by the Commission*

(23) There are various ways for digital content to reach consumers. It is opportune to set simple and clear rules as to the modalities and the time for performing the supplier's main contractual obligation to supply digital content to the consumer. Considering that the supplier is not in principle responsible for acts or omissions of an internet provider or an electronic platform which the consumer selected for receiving the digital content, it should be sufficient for the supplier to supply the digital content *to this* third party. With regard to the time of supply, in line with market practices and technical possibilities, the digital content should be supplied ***immediately***, unless the parties decide to agree otherwise in order to cater for other supply models.

*Amendment*

(23) There are various ways for digital content ***or digital services*** to reach consumers. It is opportune to set simple and clear rules as to the modalities and the time for performing the supplier's main contractual obligation to supply digital content ***or digital services*** to the consumer. Considering that the supplier is not in principle responsible for acts or omissions of an internet provider or an electronic platform which the consumer selected for receiving the digital content ***or digital service***, it should be sufficient for the supplier to supply the digital content ***or digital service to that*** third party. With regard to the time of supply, in line with market practices and technical possibilities, the digital content ***or digital service*** should be supplied ***without undue delay, and not later than 30 days from the date of conclusion of the contract***, unless the parties decide to agree otherwise in order to cater for other supply models.

Or. ro

**Amendment 229**  
**Eva Maydell**

**Proposal for a directive**  
**Recital 23**

*Text proposed by the Commission*

(23) There are various ways for digital content to reach consumers. It is opportune to set simple and clear rules as to the modalities and the time for performing the supplier's main contractual obligation to supply digital content to the consumer. Considering that the supplier is not in

*Amendment*

(23) There are various ways for digital content ***or digital services*** to reach consumers. It is opportune to set simple and clear rules as to the modalities and the time for performing the supplier's main contractual obligation to supply digital content ***or digital services*** to the consumer.

principle responsible for acts or omissions of an internet provider or an electronic platform which the consumer selected for receiving the digital content, it should be sufficient for the supplier to supply the digital content to this third party. With regard to the time of supply, in line with market practices and technical possibilities, the digital content should be supplied ***immediately***, unless the parties decide to agree otherwise in order to cater for other supply models.

Considering that the supplier is not in principle responsible for acts or omissions of an internet provider or an electronic platform which the consumer selected for receiving the digital content ***or digital service***, it should be sufficient for the supplier to supply the digital content ***or digital service*** to this third party ***or to a third party designated by the consumer***. With regard to the time of supply, in line with market practices and technical possibilities, the digital content ***or digital service*** should be supplied ***without undue delay after conclusion of the contract***, unless the parties decide to agree otherwise in order to cater for other supply models.

Or. en

#### **Amendment 230**

**Kaja Kallas, Dita Charanzová**

#### **Proposal for a directive**

##### **Recital 23**

###### *Text proposed by the Commission*

(23) There are various ways for digital content to reach consumers. It is opportune to set simple and clear rules as to the modalities and the time for performing the supplier's main contractual obligation to supply digital content to the consumer. Considering that the supplier is not in principle responsible for acts or omissions of an internet provider or an electronic platform which the consumer selected for receiving the digital content, it should be sufficient for the supplier to supply the digital content to this third party. With regard to the time of supply, in line with market practices and technical possibilities, the digital content should be supplied ***immediately***, unless the parties decide to agree otherwise in order to cater for other supply models.

###### *Amendment*

(23) There are various ways for digital content to reach consumers. It is opportune to set simple and clear rules as to the modalities and the time for performing the supplier's main contractual obligation to supply digital content to the consumer. Considering that the supplier is not in principle responsible for acts or omissions of an internet provider or an electronic platform which the consumer selected for receiving the digital content, it should be sufficient for the supplier to supply the digital content to this third party. With regard to the time of supply, in line with market practices and technical possibilities, the digital content should be supplied ***without undue delay***, unless the parties decide to agree otherwise in order to cater for other supply models.

**Amendment 231****Antanas Guoga****Proposal for a directive****Recital 23***Text proposed by the Commission*

(23) There are various ways for digital content to reach consumers. It is opportune to set simple and clear rules as to the modalities and the time for performing the supplier's main contractual obligation to supply digital content to the consumer. Considering that the supplier is not in principle responsible for acts or omissions of an internet provider or an electronic platform which the consumer selected for receiving the digital content, it should be sufficient for the supplier to supply the digital content to this third party. With regard to the time of supply, in line with market practices and technical possibilities, the digital content should be supplied ***immediately***, unless the parties decide to agree otherwise in order to cater for other supply models.

*Amendment*

(23) There are various ways for digital content to reach consumers. It is opportune to set simple and clear rules as to the modalities and the time for performing the supplier's main contractual obligation to supply digital content to the consumer. Considering that the supplier is not in principle responsible for acts or omissions of an internet provider or an electronic platform which the consumer selected for receiving the digital content, it should be sufficient for the supplier to supply the digital content to this third party. With regard to the time of supply, in line with market practices and technical possibilities, the digital content should be supplied ***without undue delay***, unless the parties decide to agree otherwise in order to cater for other supply models.

Or. en

**Amendment 232****Virginie Rozière****Proposal for a directive****Recital 23***Text proposed by the Commission*

(23) There are various ways for digital content to reach consumers. It is opportune to set simple and clear rules as to the modalities and the time for performing the supplier's main contractual obligation to supply digital content to the consumer.

*Amendment*

(23) There are various ways for digital content to reach consumers. It is opportune to set simple and clear rules as to the modalities and the time for performing the supplier's main contractual obligation to supply digital content to the consumer.



Considering that the supplier is not in principle responsible for acts or omissions of an internet provider or an electronic platform which the consumer selected for receiving the digital content, it should be sufficient for the supplier to supply the digital content to this third party. With regard to the time of supply, in line with market practices and technical possibilities, the digital content should be supplied ***immediately***, unless the parties decide to agree otherwise in order to cater for other supply models.

Considering that the supplier is not in principle responsible for acts or omissions of an internet provider or an electronic platform which the consumer selected for receiving the digital content, it should be sufficient for the supplier to supply the digital content to this third party. With regard to the time of supply, in line with market practices and technical possibilities, the digital content should be supplied ***without undue delay***, unless the parties decide to agree otherwise in order to cater for other supply models.

Or. fr

**Amendment 233**  
**Virginie Rozière**

**Proposal for a directive**  
**Recital 24**

*Text proposed by the Commission*

*Amendment*

***(24) In order to promote innovation in the Digital Single Market and cater for technological developments reflected in the fast changing characteristics of digital content, it is justified for the digital content to be, above all, in conformity with what was agreed in the contract.***

***deleted***

Or. fr

**Amendment 234**  
**Julia Reda**

**Proposal for a directive**  
**Recital 24**

*Text proposed by the Commission*

*Amendment*

***(24) In order to promote innovation in the Digital Single Market and cater for technological developments reflected in***

***deleted***

*the fast changing characteristics of digital content, it is justified for the digital content to be, above all, in conformity with what was agreed in the contract.*

Or. en

**Amendment 235**  
**Marco Zullo**

**Proposal for a directive**  
**Recital 24**

*Text proposed by the Commission*

(24) In order to promote innovation in the Digital Single Market and cater for technological developments reflected in the fast changing characteristics of digital content, it is justified for the digital content to be, above all, in conformity with what was agreed in the contract.

*Amendment*

(24) In order to promote innovation in the Digital Single Market and cater for technological developments reflected in the fast changing characteristics of digital content, it is justified for the digital content ***or service*** to be, above all, in conformity with what was agreed in the contract.

Or. it

**Amendment 236**  
**Virginie Rozière**

**Proposal for a directive**  
**Recital 25**

*Text proposed by the Commission*

(25) *In cases where the contract does not stipulate sufficiently clear and comprehensive benchmarks to ascertain the conformity of the digital content with the contract, it is necessary to set objective conformity criteria to ensure that consumers are not deprived of their rights. In such cases* the conformity with the contract should be assessed considering the purpose for which digital content of the same description would normally be used.

*Amendment*

(25) *In order to ensure that consumers are not deprived of their rights, the rules used to determine* conformity with the contract ***must be fully harmonised.*** ***In particular,*** the conformity with the contract should be assessed considering the purpose for which digital content ***or service*** of the same description would normally be used.

**Amendment 237**

**Julia Reda**

**Proposal for a directive**

**Recital 25**

*Text proposed by the Commission*

(25) ***In cases where the contract does not stipulate sufficiently clear and comprehensive benchmarks to ascertain the conformity of the digital content with the contract, it*** is necessary to set objective conformity criteria to ensure that consumers are not deprived of their rights. ***In such cases the*** conformity with the contract should be assessed considering the purpose for which digital content of the same description would normally be used.

*Amendment*

(25) It is necessary to set objective conformity criteria to ensure that consumers are not deprived of their rights. The conformity with the contract should be assessed considering the purpose for which digital content of the same description would normally be used.

Or. en

**Amendment 238**

**Evelyne Gebhardt, Christel Schaldemose, Lucy Anderson, Liisa Jaakonsaari, Anna Hedh, Josef Weidenholzer, Marc Tarabella, Catherine Stihler, Evelyn Regner**

**Proposal for a directive**

**Recital 25**

*Text proposed by the Commission*

(25) ***In cases where the*** contract ***does not*** stipulate sufficiently clear and comprehensive benchmarks to ascertain the conformity of the digital content with the contract, ***it*** is necessary to set objective conformity criteria to ensure that consumers are not deprived of their rights. In such cases the conformity with the contract should be assessed considering the purpose for which digital content of the same description would normally be used.

*Amendment*

(25) The contract ***should*** stipulate sufficiently clear and comprehensive benchmarks to ascertain the conformity of the digital content ***and digital services*** with the contract. It is ***also*** necessary to set objective conformity criteria to ensure that consumers are not deprived of their rights. In such cases the conformity with the contract should be assessed considering the purpose for which digital content ***or digital services*** of the same description would normally be used.

**Amendment 239****Marco Zullo****Proposal for a directive****Recital 25***Text proposed by the Commission*

(25) ***In cases where the*** contract ***does not*** stipulate sufficiently clear and comprehensive benchmarks to ascertain the conformity of the digital content with the contract, it is necessary to set objective conformity criteria to ensure that consumers are not deprived of their rights. In such cases the conformity with the contract should be assessed considering the purpose for which digital content of the same description would normally be used.

*Amendment*

(25) ***The*** contract ***should*** stipulate sufficiently clear and comprehensive benchmarks to ascertain the conformity of the digital content ***or service*** with the contract, it is necessary to set objective conformity criteria to ensure that consumers are not deprived of their rights. In such cases the conformity with the contract should be assessed considering the purpose for which digital content ***or services*** of the same description would normally be used, ***taking into account the nature of the content and service and, if applicable, public statements made by or on behalf of the supplier or other persons in previous links of the commercial transaction chain.***

Or. it

**Amendment 240****Kaja Kallas, Dita Charanzová****Proposal for a directive****Recital 25***Text proposed by the Commission*

(25) In cases where the contract does not stipulate sufficiently clear and comprehensive benchmarks to ascertain the conformity of the digital content with the contract, it is necessary to set objective conformity criteria to ensure that consumers are not deprived of their rights. In such cases the conformity with the

*Amendment*

(25) In cases where the contract does not stipulate sufficiently clear and comprehensive benchmarks to ascertain the conformity of the digital content with the contract, it is necessary to set objective conformity criteria to ensure that consumers are not deprived of their rights. In such cases, the conformity with the

contract should be assessed considering the purpose for which digital content of the same description would normally be used.

contract should be assessed considering the purpose for which digital content of the same description would normally be used ***and what can be reasonably expected by the consumer. Consumers' expectations vary widely depending on the type and the use of digital content and services and should therefore be objectively ascertained, having regard to the nature and purpose of the contract, the circumstances of the case, in particular in light of the rapidly evolving business models of companies in the digital sector and the fast-moving pace of innovation of digital content and services, and to the usages and practices of the parties involved.***

Or. en

**Amendment 241**  
**Julia Reda**

**Proposal for a directive**  
**Recital 26**

*Text proposed by the Commission*

(26) Due to its nature digital content needs to interact with other digital equipment to function properly; interoperability should therefore form a part of the conformity criteria. In particular it needs to interact with hardware including processor speed and graphics card features and software including a specific version of the operating system or specific multi-media player. The notion of functionality should refer to the ways in which digital content can be used; it should also refer to the absence or presence of any technical restrictions such as ***protection via*** Digital Rights Management or regional coding.

*Amendment*

(26) Due to its nature digital content needs to interact with other digital equipment to function properly; interoperability should therefore form a part of the conformity criteria. In particular it needs to interact with hardware including processor speed and graphics card features and software including a specific version of the operating system or specific multi-media player. The notion of functionality should refer to the ways in which digital content can be used; it should also refer to the absence or presence of any technical restrictions such as Digital Rights Management or regional coding. ***Technical restrictions which limit the uses of digital content permitted under Directive 2001/29/EC, Directive 96/9/EC, Directive 2009/24/EC or Directive 2012/28/EU***

*should be deemed to be a lack of functionality.*

Or. en

**Amendment 242**  
**Constance Le Grip**

**Proposal for a directive**  
**Recital 26**

*Text proposed by the Commission*

(26) Due to its nature digital content needs to interact with other digital equipment to function properly; ***interoperability should therefore form a part of the conformity criteria.*** In particular it needs to interact with hardware ***including*** processor speed and graphics card features and software including ***a*** specific version of the operating system or ***specific*** multi-media player. The notion of functionality should refer to the ways in which digital content can be used; it should also refer to the absence or presence of any technical restrictions such as protection via Digital Rights Management or regional coding.

*Amendment*

(26) Due to its nature digital content needs to interact with other digital equipment to function properly; In particular, it needs to interact with ***the*** hardware, ***taking account of the*** processor speed and graphics card features, and software, including ***the*** specific version of the operating system or ***the kind of*** multi-media player. The notion of functionality should refer to the ways in which digital content can be used ***and how well that content performs in a particular digital environment.*** it should also refer to the absence or presence of any technical restrictions such as protection via Digital Rights Management or regional coding.

Or. fr

**Amendment 243**  
**Daniel Buda**

**Proposal for a directive**  
**Recital 26**

*Text proposed by the Commission*

(26) Due to ***its*** nature digital content ***needs*** to interact with other digital equipment to function properly; interoperability should therefore form a part of the conformity criteria. In particular

*Amendment*

(26) Due to ***their*** nature, digital content ***and digital services need*** to interact with other digital equipment to function properly; interoperability should therefore form a part of the conformity criteria. In

*it needs* to interact with hardware including processor speed and graphics card features and software including a specific version of the operating system or specific multi-media player. The notion of functionality should refer to the ways in which digital content can be used; it should also refer to the absence or presence of any technical restrictions such as protection via Digital Rights Management or regional coding.

particular, *the digital content or digital services need* to interact with hardware including processor speed and graphics card features and software including a specific version of the operating system or specific multi-media player. The notion of functionality should refer to the ways in which digital content *or digital services* can be used; it should also refer to the absence or presence of any technical restrictions such as protection via Digital Rights Management or regional coding.

Or. ro

**Amendment 244**  
**Marco Zullo**

**Proposal for a directive**  
**Recital 26**

*Text proposed by the Commission*

(26) Due to *its* nature digital content *needs* to interact with other digital equipment to function properly; interoperability should therefore form a part of the conformity criteria. In particular *it needs* to interact with hardware including processor speed and graphics card features and software including a specific version of the operating system or specific multi-media player. The notion of functionality should refer to the ways in which digital content can be used; it should also refer to the absence or presence of any technical restrictions such as protection via Digital Rights Management or regional coding.

*Amendment*

(26) Due to *their* nature, digital content *and services need* to interact with other digital equipment to function properly; interoperability should therefore form a part of the conformity criteria. In particular, *the digital content and services need* to interact with hardware including processor speed and graphics card features and software including a specific version of the operating system or specific multi-media player. The notion of functionality should refer to the ways in which digital content *and digital services* can be used; it should also refer to the absence or presence of any technical restrictions such as protection via Digital Rights Management or regional coding.

Or. it

**Amendment 245**  
**Marietje Schaake**

**Proposal for a directive**  
**Recital 27**

*Text proposed by the Commission*

(27) While data-driven services and technologies bring significant benefits, they also create some vulnerabilities. As recognised by the Digital Single Market Strategy a high level of network and information security is essential across the European Union to ensure respect of fundamental rights such as the right to privacy and personal data, to increase user confidence and strengthen their trust in the digital economy. As software becomes pervasive, qualities such as reliability, security and adaptability to evolving needs are also becoming a prime concern. It is therefore increasingly important that those data-driven services and technologies ensure that those qualities are guaranteed, to the extent that is proportionate to the role and function those technologies play. In particular, quality in terms of security and reliability is becoming an important concern for innovative, composite services that have to rely on the interconnection of diverse systems in different domains.

*Amendment*

(27) While data-driven services and technologies bring significant benefits, they also create some vulnerabilities. As recognised by the Digital Single Market Strategy a high level of network and information security is essential across the European Union to ensure respect of fundamental rights such as the right to privacy and personal data, to increase user confidence and strengthen their trust in the digital economy. As software becomes pervasive, qualities such as reliability, security and adaptability to evolving needs are also becoming a prime concern. It is therefore increasingly important that those data-driven services and technologies ensure that those qualities are guaranteed, to the extent that is proportionate to the role and function those technologies play. In particular, quality in terms of security and reliability is becoming an important concern for innovative, composite services that have to rely on the interconnection of diverse systems in different domains. ***In this context it is important to stress that security updates and upgrades are a necessary element to secure the operating software of goods such as smartphones, which require the installation of the most recent version for the lifespan of the device as soon as possible in order to be protected against exploitation by persons acting with malicious intent.***

Or. en

**Amendment 246**  
**Daniel Dalton, Vicky Ford**

**Proposal for a directive**  
**Recital 27**



(27) While data-driven services and technologies bring significant benefits, they also create some vulnerabilities. ***As recognised by the Digital Single Market Strategy*** a high level of network and information security is essential across the European Union to ensure respect of fundamental rights such as the right to privacy and personal data, to increase user confidence and strengthen their trust in the digital economy. As software becomes pervasive, qualities such as reliability, security and adaptability to evolving needs are also becoming a prime concern. It is therefore increasingly important that those data-driven services and technologies ensure that those qualities are guaranteed, to the extent that is proportionate to the role and function those technologies play. In particular, quality in terms of security and reliability is becoming an important concern for innovative, composite services that have to rely on the interconnection of diverse systems in different domains.

(27) While data-driven services and technologies bring significant benefits, they also create some vulnerabilities. A high level of network and information security is essential across the European Union to ensure respect of fundamental rights such as the right to privacy and personal data, to increase user confidence and strengthen their trust in the digital economy. As software becomes pervasive, qualities such as reliability, security and adaptability to evolving needs are also becoming a prime concern. It is therefore increasingly important that those data-driven services and technologies ensure that those qualities are guaranteed, to the extent that is proportionate to the role and function those technologies play. In particular, quality in terms of security and reliability is becoming an important concern for innovative, composite services that have to rely on the interconnection of diverse systems in different domains.

Or. en

#### **Amendment 247**

**Jean-Marie Cavada, Kaja Kallas**

#### **Proposal for a directive**

#### **Recital 28**

(28) When applying the rules of this Directive, suppliers should make use of standards, open technical specifications, good practices and codes of conduct, including in relation to the commonly used data format for retrieving the content generated by the user or any other content provided by the consumer, whether established at the international level, the

(28) When applying the rules of this Directive, suppliers should make use of standards, open technical specifications, good practices and codes of conduct, including in relation to the commonly used data format for retrieving the content generated by the user or any other content provided by the consumer, whether established at the international level, the

European level or at the level of a specific industry sector. In this context, the Commission ***may consider the promotion of*** the development of international and European standards and the drawing up of a code of conduct by trade associations and other representative organisations that could support the uniform implementation of the Directive.

European level or at the level of a specific industry sector. In this context, the Commission ***calls for*** the development of international and European standards and the drawing up of a code of conduct by trade associations and other representative organisations that could support the uniform implementation of the Directive.

Or. fr

#### **Amendment 248**

**Kaja Kallas, Dita Charanzová**

#### **Proposal for a directive**

##### **Recital 29**

###### *Text proposed by the Commission*

(29) Many types of digital content are supplied over a period of time. For instance, consumers access cloud services over a period of time. It is therefore important to ensure that the digital content is in conformity with the contract throughout the duration of the contract.

***Moreover, given the frequent improvement of digital content, notably by updates, the version of digital content supplied to the consumer should be the most recent one available at the time of the conclusion of the contract.***

###### *Amendment*

(29) Many types of digital content are supplied over a period of time. For instance, consumers access cloud services over a period of time. It is therefore important to ensure that the digital content is in conformity with the contract throughout the duration of the contract.

Or. en

###### *Justification*

*The version provided should be the one agreed between the supplier and the consumer based on technical requirements and interoperability of the content with the digital environment of the consumer.*

#### **Amendment 249**

**Marco Zullo**

**Proposal for a directive**  
**Recital 29**

*Text proposed by the Commission*

(29) Many types of digital content are supplied over a period of time. For instance, consumers access cloud services over a period of time. It is therefore important to ensure that the digital content is in conformity with the contract throughout the duration of the contract. Moreover, given the frequent improvement of digital content, notably by updates, the **version of** digital content supplied to the consumer should be the most recent **one** available at the time of the conclusion of the contract.

*Amendment*

(29) Many types of digital content are supplied over a period of time. For instance, consumers access cloud services over a period of time. It is therefore important to ensure that the digital content is in conformity with the contract throughout the duration of the contract. Moreover, given the frequent improvement of digital content, notably by updates, the **conformity of the** digital content **or service** supplied to the consumer **with the contract** should be **assessed on the basis of** the most recent **version** available at the time of the conclusion of the contract.

Or. it

**Amendment 250**  
**Axel Voss, Eva Maydell**

**Proposal for a directive**  
**Recital 29**

*Text proposed by the Commission*

(29) Many types of digital content are supplied over a period of time. **For instance, consumers** access cloud services **over a period of time**. It is therefore important to ensure that the digital content **is** in conformity with the contract throughout the duration of the contract. Moreover, given the frequent improvement of digital content, notably by updates, the version of digital content supplied to the consumer should be the most recent one available at the time of the conclusion of the contract.

*Amendment*

(29) Many types of digital content **or digital services** are supplied over a period of time, **such as** access **to** cloud services. It is therefore important to ensure that the digital content **or digital services are** in conformity with the contract throughout the duration of the contract. Moreover, given the frequent improvement of digital content **or digital services**, notably by updates, the version of digital content supplied to the consumer should be the most recent one available at the time of the conclusion of the contract.

Or. en

## Amendment 251

Daniel Buda

### Proposal for a directive

#### Recital 29

*Text proposed by the Commission*

(29) Many types of digital content are supplied over a period of time. For instance, consumers access cloud services over a period of time. It is therefore important to ensure that the digital content is in conformity with the contract throughout the duration of the contract. Moreover, given the frequent improvement of digital content, notably by updates, the version of digital content supplied to the consumer should be the most recent one available at the time of the conclusion of the contract.

*Amendment*

(29) Many types of digital content **or digital service** are supplied over a period of time. For instance, consumers access cloud services over a period of time. It is therefore important to ensure that the digital content **or digital service** is in conformity with the contract throughout the duration of the contract. Moreover, given the frequent improvement of digital content, notably by updates, the version of digital content supplied to the consumer should be the most recent one available at the time of the conclusion of the contract.

Or. ro

## Amendment 252

Notis Marias

### Proposal for a directive

#### Recital 29

*Text proposed by the Commission*

(29) Many types of digital content are supplied over a period of time. For instance, consumers access cloud services over a period of time. It is therefore **important** to ensure that the digital content is in conformity with the contract throughout the duration of the contract. Moreover, given the frequent improvement of digital content, notably by updates, the version of digital content supplied to the consumer should be the most recent one available at the time of the conclusion of the contract.

*Amendment*

(29) Many types of digital content are supplied over a period of time. For instance, consumers access cloud services over a period of time. It is therefore **necessary** to ensure that the digital content is in conformity with the contract throughout the duration of the contract. Moreover, given the frequent improvement of digital content, notably by updates, the version of digital content supplied to the consumer should be the most recent one available at the time of the conclusion of the contract.

**Amendment 253****Antanas Guoga****Proposal for a directive****Recital 30***Text proposed by the Commission*

(30) In order to work properly, digital content needs to be correctly integrated into the consumer's hardware and software environment. Where a lack of conformity with the contract of the digital content results from an incorrect integration, it should be regarded as a lack of conformity with the contract of the digital content itself, where it was integrated by the supplier or under its control, or by the consumer following supplier's instructions for integration and the incorrect integration was due to shortcomings in the required integration instructions. In such scenarios the origin of the lack of conformity stems from the sphere of the supplier.

*Amendment*

(30) In order to work properly, digital content needs to be correctly integrated into the consumer's hardware and software *of digital* environment. Where a lack of conformity with the contract of the digital content results from an incorrect integration, it should be regarded as a lack of conformity with the contract of the digital content itself, where it was integrated by the supplier or under its control, or by the consumer following supplier's instructions for integration and the incorrect integration was due to shortcomings in the required integration instructions. In such scenarios the origin of the lack of conformity stems from the sphere of the supplier.

Or. en

**Amendment 254****Jean-Marie Cavada****Proposal for a directive****Recital 31***Text proposed by the Commission*

(31) Conformity should cover material as well as legal defects. Third party rights might effectively bar the consumer from enjoying the digital content or some of its features in accordance with the contract if those third party rights are infringed, and if when the third party rightfully compels the supplier to stop infringing those rights and

*Amendment*

(31) Conformity should cover material as well as legal defects. Third party rights might effectively bar the consumer from enjoying the digital content or some of its features in accordance with the contract if those third party rights are infringed, and if when the third party rightfully compels the supplier to stop infringing those rights and

to discontinue offering the digital content in question. Legal defects are particularly important for digital content, which, by its nature, is subject to intellectual property rights. Therefore the supplier should ***be obliged to ensure that the digital content is free from any right of a third party, for example a copyright claim related to the digital content, which precludes the consumer from enjoying the digital content in accordance with the contract.***

to discontinue offering the digital content in question. Legal defects are particularly important for digital content, which, by its nature, is subject to intellectual property rights. Therefore the ***content*** supplier should ***guarantee that third-party rights have been respected. If the rights of a third party have been violated, that party may hold the supplier liable and call upon it to cease supplying the content in question. In that event, the supplier will be legally liable vis-à-vis the consumer.***

Or. fr

## Amendment 255

Axel Voss, Eva Maydell

### Proposal for a directive

#### Recital 31

##### *Text proposed by the Commission*

(31) Conformity should cover material as well as legal defects. Third party rights might effectively bar the consumer from enjoying the digital content or some of ***its*** features in accordance with the contract if those third party rights are infringed, and if ***when*** the third party rightfully compels the supplier to stop infringing those rights and to discontinue offering the digital content in question. Legal defects are particularly important for digital content, which, by its nature, ***is*** subject to intellectual property rights. Therefore the supplier should be obliged to ensure that the digital content ***is free*** from any right of a third party, for example a copyright claim related to the digital content, which precludes the consumer from enjoying the digital content in accordance with the contract.

##### *Amendment*

(31) Conformity should cover material as well as legal defects. Third party rights might effectively bar the consumer from enjoying the digital content or ***digital services or*** some of ***their*** features in accordance with the contract if those third party rights are infringed, and if the third party rightfully compels the supplier to stop infringing those rights and to discontinue offering the digital content ***or digital services*** in question. Legal defects are particularly important for digital content ***or digital services***, which, by its nature, ***are*** subject to intellectual property rights. Therefore the supplier should be obliged to ensure that the digital content ***or digital services are free from any restrictions resulting*** from any right of a third party, for example a copyright claim related to the digital content, which precludes the consumer from enjoying the digital content in accordance with the contract.

**Amendment 256**

**Evelyne Gebhardt, Lucy Anderson, Liisa Jaakonsaari, Christel Schaldemose, Maria Grapini, Josef Weidenholzer, Anna Hedh, Marc Tarabella, Catherine Stihler, Evelyn Regner**

**Proposal for a directive**

**Recital 31 a (new)**

*Text proposed by the Commission*

*Amendment*

***(31 a) In order to avoid a potential gap for contracts for the supply of digital content and digital services, the conditions for any binding commercial guarantees, notably pre-contractual information, advertising and guarantee statements should be laid down.***

Or. en

**Amendment 257**

**Axel Voss, Eva Maydell**

**Proposal for a directive**

**Recital 32**

*Text proposed by the Commission*

*Amendment*

***(32) Due to the specific nature of digital content with its high complexity as well as the supplier's better knowledge and access to know how, technical information and high-tech assistance, it is the supplier who is in a better position than the consumer to know the reasons for the digital content not being in conformity with the contract. The supplier is also in a better position to assess whether the lack of conformity with the contract is due to incompatibility of the consumer's digital environment with the technical requirements for the digital content. Therefore in case of a dispute it should be for the supplier to prove that the***

***(32) In order to allow businesses to rely on a single set of rules across the Union, it is necessary to fully harmonise the period of time during which the burden of proof for the lack of conformity is reversed in favour of the consumer. Within the first six months, in order to benefit from the presumption of lack of conformity, the consumer should only establish that the digital content or digital service is not conforming and that the lack of conformity became apparent within six months of delivery of the digital content or digital service, without needing to demonstrate that the lack of conformity actually existed at the relevant time for***

digital content *is in conformity with the contract, unless the supplier proves that the consumer's digital environment is not compatible with the digital content. Only where the supplier proves that the consumer's digital environment is not compatible with the interoperability and other technical requirements, it should be for the consumer to prove that the digital content is not in conformity with the contract.*

*establishing conformity. In order to increase legal certainty in relation to available remedies for lack of conformity with the contract and in order to eliminate one of the major obstacles inhibiting the Single Market, a fully harmonised order in which remedies can be exercised should be provided for.*

Or. en

**Amendment 258**  
**Angelika Niebler**

**Proposal for a directive**  
**Recital 32**

*Text proposed by the Commission*

(32) *Due to the specific nature of digital content with its high complexity as well as the supplier's better knowledge and access to know how, technical information and high-tech assistance, it is the supplier who is in a better position than the consumer to know the reasons for the digital content not being in conformity with the contract. The supplier is also in a better position to assess whether the lack of conformity with the contract is due to incompatibility of the consumer's digital environment with the technical requirements for the digital content. Therefore in case of a dispute it should be for the supplier to prove that the digital content is in conformity with the contract, unless the supplier proves that the consumer's digital environment is not compatible with the digital content. Only where the supplier proves that the consumer's digital environment is not compatible with the interoperability and other technical requirements, it should be for the consumer to prove that the digital*

*Amendment*

(32) *In case of a dispute it should be for the supplier to prove that the digital content is in conformity with the contract, unless this would be incompatible with the nature of the digital content or the nature of the lack of conformity with the contract. This should be the case in particular where the supplier proves that the consumer's digital environment is not compatible with the digital content. In the case of contracts having as their object the one-off supply of digital content, it should therefore be for the supplier, in principle, to prove that the digital content was in conformity with the contract at the time of supply if within six months of supply a lack of conformity with the contract becomes apparent. In the case of long-term obligations, this presumption should apply during the course of the contract and for a period of six months after the end of the contract. In assessing whether the lack of conformity with the contract is due to incompatibility of the consumer's digital environment with the*



content *is not in conformity with the contract*.

*technical requirements for the digital content, the supplier is dependent on the cooperation of the consumer.*

Or. de

*Justification*

*A supplier's knowledge advantage in respect of digital content cannot justify special, indefinite burden of proof arrangements for digital content.*

**Amendment 259**

**Kaja Kallas, Dita Charanzová**

**Proposal for a directive**

**Recital 32**

*Text proposed by the Commission*

(32) Due to the specific nature of digital content with its high complexity as well as the supplier's better knowledge and access to know how, technical information and high-tech assistance, it is the supplier who is in a better position than the consumer to know the reasons for the digital content not being in conformity with the contract. The supplier is also in a better position to assess whether the lack of conformity with the contract is due to incompatibility of the consumer's digital environment with the technical requirements for the digital content. Therefore in case of a dispute it should be for the supplier to prove that the digital content is in conformity with the contract, unless the supplier proves that the consumer's digital environment is not compatible with the digital content. Only where the supplier proves that the consumer's digital environment is not compatible with the interoperability and other technical requirements, *it should* be for the consumer to prove that the digital content is not in conformity with the contract.

*Amendment*

(32) Due to the specific nature of digital content with its high complexity as well as the supplier's better knowledge and access to know how, technical information and high-tech assistance, it is the supplier who is in a better position than the consumer to know the reasons for the digital content not being in conformity with the contract. The supplier is also in a better position to assess whether the lack of conformity with the contract is due to incompatibility of the consumer's digital environment with the technical requirements for the digital content. Therefore in case of a dispute it should be for the supplier to prove that the digital content is in conformity with the contract ***within the first six months from the time when the digital content is supplied***, unless the supplier proves that the consumer's digital environment is not compatible with the digital content, ***and with the exception of long-term contracts where the burden of proof should remain on the supplier throughout the duration of the contract***. Only where the supplier proves that the consumer's digital environment is not compatible with the interoperability and other technical

requirements ***should it*** be for the consumer to prove that the digital content is not in conformity with the contract.

Or. en

**Amendment 260**  
**Constance Le Grip**

**Proposal for a directive**  
**Recital 32**

*Text proposed by the Commission*

(32) Due to the specific nature of digital content with its high complexity as well as the supplier's better knowledge and access to know how, technical information and high-tech assistance, it is the supplier who is in a better position than the consumer to know the reasons for the digital content not being in conformity with the contract. The supplier is also in a better position to assess whether the lack of conformity with the contract is due to incompatibility of the consumer's digital environment with the technical requirements for the digital content. Therefore in case of a dispute it should be for the supplier to prove that the digital content is in conformity with the contract, unless the supplier proves that the consumer's digital environment is not compatible with the digital content. Only where the supplier proves that the consumer's digital environment is not compatible with the ***interoperability and*** other technical requirements, it should be for the consumer to prove that the digital content is not in conformity with the contract.

*Amendment*

(32) Due to the specific nature of digital content with its high complexity as well as the supplier's better knowledge and access to know how, technical information and high-tech assistance ***and ability to identify more easily the third parties who hold the information***, it is the supplier who is in a better position than the consumer to know the reasons for the digital content not being in conformity with the contract. The supplier is also in a better position to assess whether the lack of conformity with the contract is due to incompatibility of the consumer's digital environment with the technical requirements for the digital content. Therefore in case of a dispute it should be for the supplier to prove that the digital content is in conformity with the contract, unless the supplier proves that the consumer's digital environment is not compatible with the digital content. Only where the supplier proves that the consumer's digital environment is not compatible with the other technical requirements, it should be for the consumer to prove that the digital content is not in conformity with the contract.

Or. fr

**Amendment 261**

Evelyne Gebhardt, Christel Schaldemose, Lucy Anderson, Liisa Jaakonsaari, Josef Weidenholzer, Anna Hedh, Marc Tarabella, Catherine Stihler, Evelyn Regner, Virginie Rozière, Marlene Mizzi, Biljana Borzan

**Proposal for a directive**  
**Recital 32**

*Text proposed by the Commission*

(32) Due to the specific nature of digital content with its high complexity as well as the supplier's better knowledge and access to know how, technical information and high-tech assistance, it is the supplier who is in a better position than the consumer to know the reasons for the digital content ***not being in conformity with the contract. The supplier is also in a better position to assess whether the lack of conformity with the contract is due to incompatibility of the consumer's digital environment with the technical requirements for the digital content.*** Therefore in case of a dispute it should be for the supplier to prove that the digital content is in conformity with the contract, unless the supplier proves that the consumer's digital environment is not compatible with the digital content. Only where the supplier proves that the consumer's digital environment is not compatible with the interoperability and other technical requirements, it should be for the consumer to prove that the digital content is not in conformity with the contract.

*Amendment*

(32) Due to the specific nature of digital content with its high complexity as well as the supplier's better knowledge and access to know how, technical information and high-tech assistance, it is the supplier who is in a better position than the consumer to know the reasons for the digital content ***or digital service not being in*** conformity with the contract. Therefore, in case of a dispute, it should be for the supplier to prove that the digital content is in conformity with the contract, unless the supplier proves that the consumer's digital environment is not compatible with the digital content. Only where the supplier proves that the consumer's digital environment is not compatible with the interoperability and other technical requirements, it should be for the consumer to prove that the digital content is not in conformity with the contract.

Or. en

**Amendment 262**  
**Marco Zullo**

**Proposal for a directive**  
**Recital 32**

*Text proposed by the Commission*

*Amendment*

(32) Due to the specific nature of digital content with its high complexity as well as the supplier's better knowledge and access to know how, technical information and high-tech assistance, it is the supplier who is in a better position than the consumer to know the reasons for the digital content not being in conformity with the contract. The supplier is also in a better position to assess whether the lack of conformity with the contract is due to incompatibility of the consumer's digital environment with the technical requirements for the digital content. Therefore in case of a dispute it should be for the supplier to prove that the digital content is in conformity with the contract, unless the supplier proves that the consumer's digital environment is not compatible with the digital content. Only where the supplier proves that the consumer's digital environment is not compatible with the interoperability and other technical requirements, it should be for the consumer to prove that the digital content is not in conformity with the contract.

(32) Due to the specific nature of digital content with its high complexity as well as the supplier's better knowledge and access to know how, technical information and high-tech assistance, it is the supplier who is in a better position than the consumer to know the reasons for the digital content *or service* not being in conformity with the contract. The supplier is also in a better position to assess whether the lack of conformity with the contract is due to incompatibility of the consumer's digital environment with the technical requirements for the digital content. Therefore in case of a dispute it should be for the supplier to prove that the digital content *or service* is in conformity with the contract, unless the supplier proves that the consumer's digital environment is not compatible with the digital content *or service*. Only where the supplier proves that the consumer's digital environment is not compatible with the interoperability and other technical requirements, it should be for the consumer to prove that the digital content *or service* is not in conformity with the contract.

Or. it

## **Amendment 263**

**Andreas Schwab**

### **Proposal for a directive**

**Recital 33**

#### *Text proposed by the Commission*

(33) Without prejudice to the fundamental rights to the protection of private life, including confidentiality of communications, and the protection of personal data of the consumer, the consumer should cooperate with the supplier in order to allow the supplier to ascertain the consumer's digital environment with the use of the least

#### *Amendment*

(33) Without prejudice to the fundamental rights to the protection of private life, including confidentiality of communications, and the protection of personal data of the consumer, the consumer should cooperate with the supplier in order to allow the supplier to ascertain the consumer's digital environment with the use of the least

intrusive means which are at the disposal of both parties in the circumstances. This may often be done for instance by providing the supplier with automatically generated incident reports or details of the consumer's internet connection. Only in exceptional and duly justified circumstances where with the best use of all other means there is no other way possible, this may also be done by allowing virtual access to the consumer's digital environment. ***However, where the consumer does not cooperate with the supplier, it should be for the consumer to prove that the digital content is not in conformity with the contract.***

intrusive means which are at the disposal of both parties in the circumstances. This may often be done for instance by providing the supplier with automatically generated incident reports or details of the consumer's internet connection. Only in exceptional and duly justified circumstances where with the best use of all other means there is no other way possible, this may also be done by allowing virtual access to the consumer's digital environment.

Or. de

**Amendment 264**  
**Julia Reda**

**Proposal for a directive**  
**Recital 33**

*Text proposed by the Commission*

(33) Without prejudice to the fundamental rights to the protection of private life, including confidentiality of communications, and the protection of personal data of the consumer, the consumer should cooperate with the supplier in order to allow the supplier to ascertain the consumer's digital environment with the use of the least intrusive means which are at the disposal of both parties in the circumstances. This may often be done for instance by providing the supplier with automatically generated incident reports or details of the consumer's internet connection. Only in exceptional and duly justified circumstances where with the best use of all other means there is no other way possible, this may also be done by allowing virtual access to the consumer's digital

*Amendment*

(33) Without prejudice to the fundamental rights to the protection of private life, including confidentiality of communications, and the protection of personal data of the consumer, the consumer should cooperate with the supplier in order to allow the supplier to ascertain the consumer's digital environment with the use of the least intrusive means which are at the disposal of both parties in the circumstances. This may often be done for instance by providing the supplier with automatically generated incident reports or details of the consumer's internet connection. ***The provision of this information should not be treated as a counter-performance within this Directive.*** Only in exceptional and duly justified circumstances where with the best use of all other means there is

environment. However, where the consumer does not cooperate with the supplier, it should be for the consumer to prove that the digital content is not in conformity with the contract.

no other way possible, this may also be done by allowing virtual access to the consumer's digital environment. However, where the consumer does not cooperate with the supplier, it should be for the consumer to prove that the digital content is not in conformity with the contract.

Or. en

## **Amendment 265**

**Axel Voss, Eva Maydell**

### **Proposal for a directive Recital 33**

#### *Text proposed by the Commission*

(33) Without prejudice to the fundamental rights to the protection of private life, including confidentiality of communications, and the protection of personal data of the consumer, the consumer should cooperate with the supplier in order to allow the supplier to ascertain the consumer's digital environment with the use of the least intrusive means which are at the disposal of both parties in the circumstances. This may often be done for instance by providing the supplier with automatically generated incident reports or details of the consumer's internet connection. Only in exceptional and duly justified circumstances where with the best use of all other means there is no other way possible, this may also be done by allowing virtual access to the consumer's digital environment. However, where the consumer does not cooperate with the supplier, it should be for the consumer to prove that the digital content is not in conformity with the contract.

#### *Amendment*

(33) Without prejudice to the fundamental rights to the protection of private life, including confidentiality of communications, and the protection of personal data of the consumer, the consumer should cooperate with the supplier in order to allow the supplier to ascertain the consumer's digital environment with the use of the least intrusive means which are at the disposal of both parties in the circumstances. This may often be done for instance by providing the supplier with automatically generated incident reports or details of the consumer's internet connection. Only in exceptional and duly justified circumstances where with the best use of all other means there is no other way possible, this may also be done by allowing virtual access to the consumer's digital environment. However, where the consumer does not cooperate with the supplier, it should be for the consumer to prove that the digital content ***or digital service*** is not in conformity with the contract ***provided that the consumer was informed about this consequence.***

Or. en

## Amendment 266

Evelyne Gebhardt, Christel Schaldemose, Liisa Jaakonsaari, Lucy Anderson, Josef Weidenholzer, Anna Hedh, Marc Tarabella, Catherine Stihler, Evelyn Regner

### Proposal for a directive

#### Recital 33

##### *Text proposed by the Commission*

(33) Without prejudice to the fundamental rights to the protection of private life, including confidentiality of communications, and the protection of personal data of the consumer, the consumer should cooperate with the supplier in order to allow the supplier to ascertain the consumer's digital environment with the use of the least intrusive means which are at the disposal of both parties in the circumstances. This may often be done for instance by providing the supplier with automatically generated incident reports or details of the consumer's internet connection. Only in exceptional and duly justified circumstances where with the best use of all other means there is no other way possible, this may also be done by allowing virtual access to the consumer's digital environment. However, where the consumer does not cooperate with the supplier, it should be for the consumer to prove that the digital content is not in conformity with the contract.

##### *Amendment*

(33) Without prejudice to the fundamental rights to the protection of private life, including confidentiality of communications, and the protection of personal data of the consumer, the consumer should cooperate with the supplier in order to allow the supplier to ascertain the consumer's digital environment with the use of the least intrusive means which are at the disposal of both parties in the circumstances. This may often be done for instance by providing the supplier with automatically generated incident reports or details of the consumer's internet connection. Only in exceptional and duly justified circumstances where with the best use of all other means there is no other way possible, this may also be done by allowing virtual access to the consumer's digital environment. However, where the consumer does not cooperate with the supplier, it should be for the consumer to prove that the digital content ***or digital service*** is not in conformity with the contract ***provided that the consumer was informed about this consequence.***

Or. en

## Amendment 267

Antanas Guoga

### Proposal for a directive

#### Recital 33

(33) Without prejudice to the fundamental rights to the protection of private life, including confidentiality of communications, and the protection of personal data of the consumer, the consumer should cooperate with the supplier in order to allow the supplier to ascertain the consumer's digital environment with the use of the least intrusive means which are at the disposal of both parties in the circumstances. This may often be done for instance by providing the supplier with automatically generated incident reports or details of the consumer's internet connection. Only in exceptional and duly justified circumstances where with the best use of all other means there is no other way possible, this may also be done by allowing virtual access to the consumer's digital environment. However, where the consumer does not cooperate with the supplier, it should be for the consumer to prove that the digital content is not in conformity with the contract.

(33) Without prejudice to the fundamental rights to the protection of private life, including confidentiality of communications, and the protection of personal data of the consumer, the consumer should cooperate with the supplier in order to allow the supplier to ascertain the consumer's digital environment with the use of the least intrusive means which are at the disposal of both parties in the circumstances ***for determining whether the lack of conformity existed at the time of the supply of digital content***. This may often be done for instance by providing the supplier with automatically generated incident reports or details of the consumer's internet connection. Only in exceptional and duly justified circumstances where with the best use of all other means there is no other way possible, this may also be done by allowing virtual access to the consumer's digital environment. However, where the consumer does not cooperate with the supplier, it should be for the consumer to prove that the digital content is not in conformity with the contract.

Or. en

**Amendment 268**  
**Marco Zullo**

**Proposal for a directive**  
**Recital 33**

(33) Without prejudice to the fundamental rights to the protection of private life, including confidentiality of communications, and the protection of personal data of the consumer, the consumer should cooperate with the supplier in order to allow the supplier to

(33) Without prejudice to the fundamental rights to the protection of private life, including confidentiality of communications, and the protection of personal data of the consumer, the consumer should cooperate with the supplier in order to allow the supplier to



ascertain the consumer's digital environment with the use of the least intrusive means which are at the disposal of both parties in the circumstances. This may often be done for instance by providing the supplier with automatically generated incident reports or details of the consumer's internet connection. Only in exceptional and duly justified circumstances where with the best use of all other means there is no other way possible, this may also be done by allowing virtual access to the consumer's digital environment. However, where the consumer does not cooperate with the supplier, it should be for the consumer to prove that the digital content is not in conformity with the contract.

ascertain the consumer's digital environment with the use of the least intrusive means which are at the disposal of both parties in the circumstances. This may often be done for instance by providing the supplier with automatically generated incident reports or details of the consumer's internet connection. Only in exceptional and duly justified circumstances where with the best use of all other means there is no other way possible, this may also be done by allowing virtual access to the consumer's digital environment. However, where the consumer does not cooperate with the supplier, it should be for the consumer to prove that the digital content **or service** is not in conformity with the contract.

Or. it

#### **Amendment 269**

**Jean-Marie Cavada, Kaja Kallas**

#### **Proposal for a directive**

#### **Recital 34**

##### *Text proposed by the Commission*

(34) The supplier should be liable to the consumer for the lack of conformity with the contract and for any failure to supply the digital content. Moreover, given that digital content may be supplied over a period of time, ***it is justified that*** the supplier ***should be*** liable ***for any*** lack of conformity ***which*** occurs during that period.

##### *Amendment*

(34) The supplier should be liable to the consumer for the lack of conformity with the contract and for any failure to supply the digital content. Moreover, given that digital content may be supplied over a period of time, the supplier ***may be found*** liable ***if a*** lack of conformity occurs during that period, ***if the consumer proves that no change has been made to the contract, in particular as concerns the digital environment and/or technical specifications.***

Or. fr

#### **Amendment 270**

Angel Dzhambazki

## Proposal for a directive

### Recital 34

*Text proposed by the Commission*

(34) The supplier should be liable to the consumer for the lack of conformity with the contract and for any failure to supply the digital content. Moreover, given that digital content may be supplied over a period of time, it is justified that the supplier should be liable for any lack of conformity which occurs during that period.

*Amendment*

(34) The supplier should be liable to the consumer for the lack of conformity with the contract and for any failure to supply the digital content. Moreover, given that digital content may be supplied over a period of time, it is justified that the supplier should be liable for any lack of conformity which occurs during that period. ***However, the supplier should not be liable for faulty digital content that is the result of issues falling beyond the control of the supplier, such as device incompatibility or poor internet connection.***

Or. en

## Amendment 271

Axel Voss, Eva Maydell

## Proposal for a directive

### Recital 34

*Text proposed by the Commission*

(34) The supplier should be liable to the consumer for ***the lack of conformity with the contract and for any failure to supply the digital content***. Moreover, given that digital content may be supplied over a period of time, it is justified that the supplier should be liable for any lack of conformity which occurs during that period.

*Amendment*

(34) The supplier should be liable to the consumer for ***any failure to supply digital content or digital services and the lack of conformity with the contract***. Moreover, given that digital content ***or digital services*** may be supplied over a period of time, it is justified that the supplier should be liable for any lack of conformity which occurs during that period.

Or. en

## Amendment 272

Evelyne Gebhardt, Virginie Rozière, Marlene Mizzi, Olga Sehnalová, Liisa Jaakonsaari, Christel Schaldemose, Lucy Anderson, Anna Hedh, Josef Weidenholzer, Marc Tarabella, Catherine Stihler, Biljana Borzan, Evelyn Regner

**Proposal for a directive**  
**Recital 34**

*Text proposed by the Commission*

(34) The supplier should be liable to the consumer for ***the lack of conformity with the contract*** and for ***any failure to supply the digital content***. Moreover, given that digital content may be supplied over a period of time, it is justified that the supplier should be liable for any lack of conformity which occurs during that period.

*Amendment*

(34) The supplier should be liable to the consumer for ***any failure to supply the digital content or a digital service*** and for ***the lack of conformity with the contract***. Moreover, given that digital content ***or digital services*** may be supplied over a period of time, it is justified that the supplier should be liable for any lack of conformity which occurs during that period.

Or. en

**Amendment 273**  
**Daniel Buda**

**Proposal for a directive**  
**Recital 34**

*Text proposed by the Commission*

(34) The supplier should be liable to the consumer for the lack of conformity with the contract and for any failure to supply the digital content. Moreover, given that digital content may be supplied over a period of time, it is justified that the supplier should be liable for any lack of conformity which occurs during that period.

*Amendment*

(34) The supplier should be liable to the consumer for the lack of conformity with the contract and for any failure to supply the digital content ***or digital service***. Moreover, given that digital content ***or digital service*** may be supplied over a period of time, it is justified that the supplier should be liable for any lack of conformity which occurs during that period.

Or. ro

**Amendment 274**  
**Marco Zullo**

**Proposal for a directive**  
**Recital 34**

*Text proposed by the Commission*

(34) The supplier should be liable to the consumer for the lack of conformity with the contract and for any failure to supply the digital content. Moreover, given that digital content may be supplied over a period of time, it is justified that the supplier should be liable for any lack of conformity which occurs during that period.

*Amendment*

(34) The supplier should be liable to the consumer for the lack of conformity with the contract and for any failure to supply the digital content **or service**. Moreover, given that digital content **or services** may be supplied over a period of time, it is justified that the supplier should be liable for any lack of conformity which occurs during that period.

Or. it

**Amendment 275**  
**Axel Voss, Eva Maydell**

**Proposal for a directive**  
**Recital 34 a (new)**

*Text proposed by the Commission*

*Amendment*

***(34 a) In order to enhance legal certainty it is important to link the time limit for remedies of consumers with the relevant time for establishing conformity with the contract. As a general rule, the relevant time for establishing conformity should be the time when a consumer or a third party indicated by the consumer and other than the carrier has acquired physical possession of a tangible medium in which the digital content or digital service is embedded, or the time where such tangible medium is handed over to the carrier chosen by the consumer. Where the digital content or digital service have not been supplied on a tangible good the consumer must have contained control of the content or service for instance by fully downloading it. Where control cannot be obtained, for instance where the digital service provides access to saving or***

*storing capacities, the relevant time for establishing conformity with the contract must be the time where the parties have agreed that access should be provided.*

Or. en

**Amendment 276**  
**Dietmar Köster**

**Proposal for a directive**  
**Recital 34 a (new)**

*Text proposed by the Commission*

*Amendment*

*(34 a) In order to increase legal certainty for sellers and overall consumer confidence in cross-border purchases it is necessary to harmonise the period during which the seller is held liable for any lack of conformity which exists at the time when the consumer acquires the physical possession of goods. In order to achieve a high level of consumer protection this period should be six years.*

Or. en

**Amendment 277**  
**Dietmar Köster**

**Proposal for a directive**  
**Recital 34 b (new)**

*Text proposed by the Commission*

*Amendment*

*(34 b) In order to allow businesses to rely on a single set of rules across the Union, it is necessary to fully harmonise the period of time during which the burden of proof for the lack of conformity is reversed in favour of the consumer. Within the first six years, in order to benefit from the presumption of lack of conformity, the consumer should only*

*establish that the digital content or digital service is not conforming, without needing to demonstrate that the lack of conformity actually existed at the relevant time for establishing conformity.*

Or. en

#### **Amendment 278**

**Julia Reda**

#### **Proposal for a directive**

#### **Recital 35**

*Text proposed by the Commission*

(35) A failure of the supplier to supply the digital content to the consumer in accordance with the contract ***is a serious breach of the main contractual obligation of the supplier, which*** should allow the consumer to immediately terminate the contract. ***Where the supplier has initially not failed to supply the digital content, interruptions of the supply making the digital content not available or accessible to the consumer over a short period of time should be treated as non-conformity with the contract, and not a failure to supply. In particular, the*** requirement of proper continuity of the digital content should also cover more than negligible short term interruptions of the supply.

*Amendment*

(35) A failure of the supplier to supply the digital content to the consumer in accordance with the ***contract or non-conformity of the digital content or digital service with the contract should allow the consumer to immediately terminate the contract. The requirement of proper continuity of the digital content should also cover more than negligible short term interruptions of the supply.***

Or. en

#### **Amendment 279**

**Axel Voss, Eva Maydell**

#### **Proposal for a directive**

#### **Recital 35**

*Text proposed by the Commission*

*Amendment*

(35) *A failure of the supplier to supply the digital content to the consumer in accordance with the contract **is a serious breach of the main contractual obligation of the supplier, which** should allow the consumer to **immediately** terminate the contract. Where the supplier has initially not failed to supply the digital content, interruptions of the supply making the digital content not available or accessible to the consumer over a short period of time should be treated as non-conformity with the contract, and not a failure to supply. In particular, the requirement of proper continuity of the digital content should also cover more than negligible short term interruptions of the supply.*

(35) *Where the supplier **fails** to supply the digital content **or digital services** to the consumer in accordance with the contract **the consumer should call upon the supplier to make the supply within an additional and appropriate period of time. Any failure to supply within this additional period of time** should allow the consumer to terminate the contract. Where the supplier has initially not failed to supply the digital content **or digital services**, interruptions of the supply making the digital content **or digital services** not available or accessible to the consumer over a short period of time should be treated as non-conformity with the contract, and not a failure to supply. In particular, the requirement of proper continuity of the digital content should also cover more than negligible short term interruptions of the supply **which are significant, continuous and recurring.***

Or. en

#### Amendment 280

Evelyn Gebhardt, Marlene Mizzi, Lucy Anderson, Christel Schaldemose, Liisa Jaakonsaari, Olga Sehnalová, Marc Tarabella, Catherine Stihler, Biljana Borzan, Evelyn Regner

#### Proposal for a directive Recital 35

##### *Text proposed by the Commission*

(35) *A failure of the supplier to supply the digital content to the consumer in accordance with the contract **is a serious breach of the main contractual obligation of the supplier, which** should allow the consumer to immediately terminate the contract. Where the supplier has initially not failed to supply the digital content, interruptions of the supply making the digital content not available or accessible to the consumer over a short period of time should be treated as non-conformity with*

##### *Amendment*

(35) *Where the supplier **fails** to supply the digital content **or a digital service** to the consumer in accordance with the contract **the consumer should call to make the supply within an additional and appropriate period of time. Any failure to supply within this additional period of time** should allow the consumer to immediately terminate the contract. Where the supplier has initially not failed to supply the digital content **or digital services**, interruptions of the supply*

the contract, and not a failure to supply. In particular, the requirement of proper continuity of the digital content should also cover more than negligible short term interruptions of the supply.

making the digital content ***or digital services*** not available or accessible to the consumer over a short period of time should be treated as non-conformity with the contract, and not a failure to supply. In particular, the requirement of proper continuity of the digital content should also cover more than negligible short term interruptions of the supply.

Or. en

#### **Amendment 281**

**Daniel Buda**

#### **Proposal for a directive**

##### **Recital 35**

###### *Text proposed by the Commission*

**(35)** A failure of the supplier to supply the digital content to the consumer in accordance with the contract is a serious breach of the main contractual obligation of the supplier, which should allow the consumer to immediately terminate the contract. Where the supplier has initially not failed to supply the digital content, interruptions of the supply making the digital content not available or accessible to the consumer over a short period of time should be treated as non-conformity with the contract, and not a failure to supply. In particular, the requirement of proper continuity of the digital content should also cover more than negligible short term interruptions of the supply.

###### *Amendment*

**(35)** A failure of the supplier to supply the digital content ***or digital service*** to the consumer in accordance with the contract is a serious breach of the main contractual obligation of the supplier, which should allow the consumer to immediately terminate the contract. Where the supplier has initially not failed to supply the digital content ***or digital service***, interruptions of the supply making the digital content ***is*** not available or ***the digital services not*** accessible to the consumer over a short period of time should be treated as non-conformity with the contract, and not a failure to supply. In particular, the requirement of proper continuity of the digital content ***or digital services*** should also cover more than negligible short term interruptions of the supply.

Or. ro

#### **Amendment 282**

**Marco Zullo**



**Proposal for a directive**  
**Recital 35**

*Text proposed by the Commission*

(35) A failure of the supplier to supply the digital content to the consumer in accordance with the contract is a serious breach of the main contractual obligation of the supplier, which should allow the consumer to immediately terminate the contract. Where the supplier has initially not failed to supply the digital content, interruptions of the supply making the digital content not available or accessible to the consumer over a short period of time should be treated as non-conformity with the contract, and not a failure to supply. In particular, the requirement of proper continuity of the digital content should also cover more than negligible short term interruptions of the supply.

*Amendment*

(35) A failure of the supplier to supply the digital content **or service** to the consumer in accordance with the contract is a serious breach of the main contractual obligation of the supplier, which should allow the consumer to immediately terminate the contract. Where the supplier has initially not failed to supply the digital content, interruptions of the supply making the digital content not available or accessible to the consumer over a short period of time should be treated as non-conformity with the contract, and not a failure to supply. In particular, the requirement of proper continuity of the digital content **or service** should also cover more than negligible short term interruptions of the supply.

Or. it

**Amendment 283**

**Evelyn Gebhardt, Lucy Anderson, Christel Schaldemose, Liisa Jaakonsaari, Anna Hedh, Josef Weidenholzer, Marc Tarabella, Catherine Stihler, Evelyn Regner**

**Proposal for a directive**  
**Recital 36**

*Text proposed by the Commission*

***(36) In the case of non-conformity with the contract, consumers should as a first step be entitled to have the digital content brought to conformity with the contract. Depending on technical characteristics of the digital content, the supplier may select a specific way of bringing the digital content to conformity with the contract, for example by issuing updates or requiring the consumer to access a new copy of the digital content. Given the diversity of digital content, it is not***

*Amendment*

***deleted***

*appropriate to set fixed deadlines for the exercise of rights or the fulfilling of obligations related to that digital content. Such deadlines may not capture this diversity and be either too short or too long, depending on the case. It is therefore more appropriate to refer to reasonable deadlines. The digital content should be brought into conformity with the contract within a reasonable time and free of any costs; in particular the consumer should not incur any costs associated with the development of an update for the digital content.*

Or. en

**Amendment 284**  
**Virginie Rozière**

**Proposal for a directive**  
**Recital 36**

*Text proposed by the Commission*

*Amendment*

*(36) In the case of non-conformity with the contract, consumers should as a first step be entitled to have the digital content brought to conformity with the contract. Depending on technical characteristics of the digital content, the supplier may select a specific way of bringing the digital content to conformity with the contract, for example by issuing updates or requiring the consumer to access a new copy of the digital content. Given the diversity of digital content, it is not appropriate to set fixed deadlines for the exercise of rights or the fulfilling of obligations related to that digital content. Such deadlines may not capture this diversity and be either too short or too long, depending on the case. It is therefore more appropriate to refer to reasonable deadlines. The digital content should be brought into conformity with the contract within a reasonable time and*

*deleted*

*free of any costs; in particular the consumer should not incur any costs associated with the development of an update for the digital content.*

Or. fr

**Amendment 285**  
**Julia Reda**

**Proposal for a directive**  
**Recital 36**

*Text proposed by the Commission*

(36) In the case of non-conformity with the contract, consumers should *as a first step be entitled to have* the digital content brought *to* conformity with the contract. Depending on technical characteristics of the digital content, the supplier may select a specific way of bringing the digital content to conformity with the contract, for example by issuing updates or requiring the consumer to access a new copy of the digital content. Given the diversity of digital content, it is not appropriate to set fixed deadlines for the exercise of rights or the fulfilling of obligations related to that digital content. Such deadlines may not capture this diversity and be either too short or too long, depending on the case. It is therefore more appropriate to refer to reasonable deadlines. The digital content should be brought into conformity with the contract within a reasonable time and free of any costs; in particular the consumer should not incur any costs associated with the development of an update for the digital content.

*Amendment*

(36) In the case of non-conformity with the contract, consumers should *have a free choice between having* the digital content brought *into* conformity with *the contract, a replacement, a price reduction or termination of* the contract. Depending on technical characteristics of the digital content, the supplier may select a specific way of bringing the digital content to conformity with the contract, for example by issuing updates or requiring the consumer to access a new copy of the digital content. Given the diversity of digital content, it is not appropriate to set fixed deadlines for the exercise of rights or the fulfilling of obligations related to that digital content. Such deadlines may not capture this diversity and be either too short or too long, depending on the case. It is therefore more appropriate to refer to reasonable deadlines. The digital content should be brought into conformity with the contract within a reasonable time and free of any costs; in particular the consumer should not incur any costs associated with the development of an update for the digital content.

Or. en

**Amendment 286**  
**Axel Voss, Eva Maydell**

**Proposal for a directive**  
**Recital 36**

*Text proposed by the Commission*

(36) In the case of non-conformity with the contract, consumers should as a first step be entitled to have the digital content brought to conformity with the contract. Depending on technical characteristics of the digital content, the supplier may select a specific way of bringing the digital content to conformity with the contract, for example by issuing updates or requiring the consumer to access a new copy of the digital content. Given the diversity of digital content, it is not appropriate to set fixed deadlines for the exercise of rights or the fulfilling of obligations related to that digital content. Such deadlines may not capture this diversity and be either too short or too long, depending on the case. It is therefore more appropriate to refer to reasonable deadlines. The digital content should be brought into conformity with the contract within a reasonable time and free of any costs; *in particular the* consumer should not incur any costs associated with the development of an update for the digital content.

*Amendment*

(36) In the case of non-conformity with the contract, consumers should as a first step be entitled to have the digital content *or digital service* brought to conformity with the contract. Depending on technical characteristics of the digital content *or digital service*, the supplier may select a specific way of bringing the digital content *or digital service* to conformity with the contract, for example by issuing updates or requiring the consumer to access a new copy of the digital content. Given the diversity of digital content *or digital services*, it is not appropriate to set fixed deadlines for the exercise of rights or the fulfilling of obligations related to that digital content *or digital service*. Such deadlines may not capture this diversity and be either too short or too long, depending on the case. It is therefore more appropriate to refer to reasonable deadlines. The digital content *or digital service* should be brought into conformity with the contract within a reasonable time and free of any costs. The consumer should not incur any costs associated with the development of an update for the digital content *or digital service*.

Or. en

**Amendment 287**  
**Daniel Buda**

**Proposal for a directive**  
**Recital 36**

*Text proposed by the Commission*

*Amendment*

(36) In the case of non-conformity with the contract, consumers should as a first step be entitled to have the digital content brought to conformity with the contract. Depending on technical characteristics of the digital content, the supplier may select a specific way of bringing the digital content to conformity with the contract, for example by issuing updates or requiring the consumer to access a new copy of the digital content. Given the diversity of digital content, it is not appropriate to set fixed deadlines for the exercise of rights or the fulfilling of obligations related to *that* digital content. Such deadlines may not capture this diversity and be either too short or too long, depending on the case. It is therefore more appropriate to refer to reasonable deadlines. The digital content should be brought into conformity with the contract within a reasonable time and free of any costs; in particular the consumer should not incur any costs associated with the development of an update for the digital content.

(36) In the case of non-conformity with the contract, consumers should as a first step be entitled to have the digital content *or digital services* brought to conformity with the contract. Depending on technical characteristics of the digital content *or digital services*, the supplier may select a specific way of bringing the digital content to conformity with the contract, for example by issuing updates or requiring the consumer to access a new copy of the digital content. Given the diversity of digital content *or digital services*, it is not appropriate to set fixed deadlines for the exercise of rights or the fulfilling of obligations related to *those* digital content *or digital services*. Such deadlines may not capture this diversity and be either too short or too long, depending on the case. It is therefore more appropriate to refer to reasonable deadlines. The digital content *or digital service* should be brought into conformity with the contract within a reasonable time and free of any costs; in particular the consumer should not incur any costs associated with the development of an update for the digital content.

Or. ro

## **Amendment 288**

### **Marco Zullo**

#### **Proposal for a directive**

#### **Recital 36**

##### *Text proposed by the Commission*

(36) In the case of non-conformity with the contract, consumers should as a first step be entitled to have the digital content brought to conformity with the contract. Depending on technical characteristics of the digital content, the supplier may select a specific way of bringing the digital content to conformity with the contract, for example by issuing updates or requiring

##### *Amendment*

(36) In the case of non-conformity with the contract, consumers should as a first step be entitled to have the digital content *or service* brought to conformity with the contract. Depending on technical characteristics of the digital content, the supplier may select a specific way of bringing the digital content *or service* to conformity with the contract, for example

the consumer to access a new copy of the digital content. Given the diversity of digital content, it is not appropriate to set fixed deadlines for the exercise of rights or the fulfilling of obligations related to that digital content. Such deadlines may not capture this diversity and be either too short or too long, depending on the case. It is therefore more appropriate to refer to reasonable deadlines. The digital content should be brought into conformity with the contract within a reasonable time and free of any costs; in particular the consumer should not incur any costs associated with the development of an update for the digital content.

by issuing updates or requiring the consumer to access a new copy of the digital content. Given the diversity of digital content **and services**, it is not appropriate to set fixed deadlines for the exercise of rights or the fulfilling of obligations related to that digital content **or service**. Such deadlines may not capture this diversity and be either too short or too long, depending on the case. It is therefore more appropriate to refer to reasonable deadlines. The digital content **or service** should be brought into conformity with the contract within a reasonable time and free of any costs; in particular the consumer should not incur any costs associated with the development of an update for the digital content **or service**.

Or. it

**Amendment 289**  
**Axel Voss, Eva Maydell**

**Proposal for a directive**  
**Recital 36 a (new)**

*Text proposed by the Commission*

*Amendment*

***(36 a) The standard of reasonableness should be objectively ascertained, having regard to the nature and purpose of the contract, to the circumstances of the case and to the usages and practices of the parties involved. In particular, the reasonable time for bringing the digital content or digital service in conformity with the contract should be objectively ascertained, having regard to the nature of digital content or digital service and the lack of conformity.***

Or. en

**Amendment 290**

Evelyne Gebhardt, Virginie Rozière, Anna Hedh, Lucy Anderson, Christel Schaldemose, Maria Grapini, Olga Sehnalová, Marc Tarabella, Catherine Stihler, Biljana Borzan, Evelyn Regner

**Proposal for a directive**  
**Recital 36 a (new)**

*Text proposed by the Commission*

*Amendment*

***(36 a) This Directive should grant consumers throughout the European Union a new and unrivalled freedom in choosing remedies. A consumer should be able to require the seller to bring the digital content or digital service into conformity with the contract either through repair of the defects in the digital content or digital service or the smart good in which they are embedded or through replacement of the defective good with a conforming one. But more importantly, the consumer should be able to turn down any offer by the supplier to cure so as to require price reduction or termination of the contract. The consumer should be able to decide whether or not to give the supplier a chance to cure the defects, and in which way the supplier should cure the defects, according to his own preference. Repair or replacement might be preferable if a consumer thinks the value of the defective product is great, for example because the products are unique or the market prices of the products have gone up.***

Or. en

**Amendment 291**  
**Virginie Rozière**

**Proposal for a directive**  
**Recital 37**

*Text proposed by the Commission*

*Amendment*

*(37) As a second step, the consumer should be entitled to have the price reduced or the contract terminated. The right of a consumer to have the contract terminated should be limited to those cases where for instance bringing the digital content to conformity is not possible and the non-conformity impairs the main performance features of the digital content. Where the consumer terminates the contract, the supplier should reimburse the price paid by the consumer or, where the digital content is supplied not in exchange for a price but against access to data provided by the consumer, the supplier should refrain from using it, from transferring that data to third parties or allowing third parties to access it after termination of the contract. Fulfilling the obligation to refrain from using data should mean in the case when the counter-performance consists of personal data, that the supplier should take all measures in order to comply with data protection rules by deleting it or rendering it anonymous in such a way that the consumer cannot be identified by any means likely reasonably to be used either by the supplier or by any other person. Without prejudice to obligations of a controller under Directive 95/46/EC the supplier should not be obliged to undertake any further steps in relation to data which the supplier has lawfully provided to third parties in the course of the duration of the contract for the supply of the digital content.*

*deleted*

Or. fr

**Amendment 292**  
**Birgit Collin-Langen**

**Proposal for a directive**  
**Recital 37**



(37) As a second step, the consumer should be entitled to have the price reduced or the contract terminated. The right of a consumer to have the contract terminated should be limited to those cases where for instance bringing the digital content to conformity is not possible and the non-conformity impairs the main performance features of the digital content. Where the consumer terminates the contract, the supplier should reimburse the price paid by the consumer *or, where the digital content is supplied not in exchange for a price but against access to data provided by the consumer, the supplier should refrain from using it, from transferring that data to third parties or allowing third parties to access it after termination of the contract. Fulfilling the obligation to refrain from using data should mean in the case when the counter-performance consists of personal data, that the supplier should take all measures in order to comply with data protection rules by deleting it or rendering it anonymous in such a way that the consumer cannot be identified by any means likely reasonably to be used either by the supplier or by any other person. Without prejudice to obligations of a controller under Directive 95/46/EC the supplier should not be obliged to undertake any further steps in relation to data which the supplier has lawfully provided to third parties in the course of the duration of the contract for the supply of the digital content.*

(37) As a second step, the consumer should be entitled to have the price reduced or the contract terminated. The right of a consumer to have the contract terminated should be limited to those cases where for instance bringing the digital content to conformity is not possible and the non-conformity impairs the main performance features of the digital content. Where the consumer terminates the contract, the supplier should reimburse the price paid by the consumer.

Or. de

**Amendment 293**

**Axel Voss, Eva Maydell**

**Proposal for a directive**

**Recital 37**

(37) As a second step, the consumer should be entitled to have the price reduced or the contract terminated. The right of a consumer to have the contract terminated should be limited to those cases where *for instance bringing the digital content to conformity is not possible and the non-conformity impairs the main performance features of the digital content. Where the consumer terminates the contract, the supplier should reimburse the price paid by the consumer or, where the digital content is supplied not in exchange for a price but against access to data provided by the consumer, the supplier should refrain from using it, from transferring that data to third parties or allowing third parties to access it after termination of the contract. Fulfilling the obligation to refrain from using data should mean in the case when the counter-performance consists of personal data, that the supplier should take all measures in order to comply with data protection rules by deleting it or rendering it anonymous in such a way that the consumer cannot be identified by any means likely reasonably to be used either by the supplier or by any other person. Without prejudice to obligations of a controller under Directive 95/46/EC the supplier should not be obliged to undertake any further steps in relation to data which the supplier has lawfully provided to third parties in the course of the duration of the contract for the supply of the digital content.*

(37) As a second step, the consumer should be entitled to have the price reduced or the contract terminated. The right of a consumer to have the contract terminated should be limited to those cases where *the lack of non-conformity is not only minor and where bringing the digital content or digital service to conformity is not possible, and the non-conformity impairs functionality, interoperability or performance features of the digital content or digital service such as its accessibility, continuity and security as required by objective or subjective conformity criteria. Where the consumer terminates the contract, the supplier should reimburse the price paid by the consumer.*

Or. en

#### Amendment 294

Evelyn Gebhardt, Virginie Rozière, Lucy Anderson, Christel Schaldemose, Liisa Jaakonsaari, Josef Weidenholzer, Anna Hedh, Marc Tarabella, Catherine Stihler, Evelyn Regner

#### Proposal for a directive

## Recital 37

### *Text proposed by the Commission*

(37) *As a second step, the consumer should be entitled to have the price reduced or the contract terminated. The right of a consumer to have the contract terminated should be limited to those cases where for instance bringing the digital content to conformity is not possible and the non-conformity impairs the main performance features of the digital content. Where the consumer terminates the contract, the supplier should reimburse the price paid by the consumer or, where the digital content is supplied not in exchange for a price but against access to data provided by the consumer, the supplier should **refrain from using it, from transferring that data to third parties or allowing third parties to access** it after termination of the contract. Fulfilling the obligation to refrain from using data should mean in the case when the counter-performance consists of personal data, that the supplier should take all measures in order to comply with data protection rules by deleting it or rendering it anonymous **in such a way that the consumer cannot be identified by any means likely reasonably to be used either by the supplier or by any other person.** Without prejudice to obligations of a controller under **Directive 95/46/EC** the supplier should not be obliged to undertake any further steps in relation to data which the supplier has lawfully provided to third parties in the course of the duration of the contract for the supply of the digital content.*

### *Amendment*

(37) Where the digital content is supplied not in exchange for a price but against access to data provided by the consumer, the supplier should **stop processing** it after termination of the contract. Fulfilling the obligation to refrain from using data should mean in the case when the counter-performance consists of personal data, that the supplier should take all measures in order to comply with data protection rules by deleting it or rendering it anonymous. Without prejudice to obligations of a controller under **Regulation (EU) 2016/679** the supplier should not be obliged to undertake any further steps in relation to data which the supplier has lawfully provided to third parties in the course of the duration of the contract for the supply of the digital content.

Or. en

### *Justification*

*The definition of “processing” in Article 4 (2) of Regulation EU 2016/679 already entails all those categories of use.*

Proposal for a directive  
Recital 37

*Text proposed by the Commission*

(37) As a second step, the consumer should be entitled to have the price reduced or the contract terminated. The right of a consumer to have the contract terminated should be limited to those cases where for instance bringing the digital content to conformity is not possible and the non-conformity impairs the main performance features of the digital content. **Where** the consumer terminates the contract, the supplier **should** reimburse the price paid by the consumer or, where the digital content is supplied **not in exchange for a price but** against access to data provided by the consumer, the supplier **should** refrain from using it, from transferring that data to third parties or allowing third parties to access it **after termination of** the contract. Fulfilling the obligation to refrain from using data **should mean in the case when** the counter-performance consists of personal data, that the supplier **should** take all measures in order to comply with data protection rules by deleting it or rendering it anonymous in such a way that the consumer **cannot** be identified by any means likely reasonably to be used either by the supplier or by any other person. Without prejudice to obligations of a controller under Directive 95/46/EC the supplier should not be obliged to undertake any further steps in relation to data which the supplier has lawfully provided to third parties in the course of the duration of the contract for the supply of the digital content.

*Amendment*

(37) As a second step, **if no way has been found to bring the digital content in line with the contract, and if the consumer shows that he has given the supplier all the necessary elements for making the installation of the content compatible with the digital environment or technical specificities**, the consumer should be entitled to have the price reduced or the contract terminated. The right of a consumer to have the contract terminated should be limited to those cases where for instance bringing the digital content to conformity is not possible and the non-conformity impairs the main performance features of the digital content. **Under those conditions, where** the consumer terminates the contract, the supplier **shall** reimburse the price paid by the consumer or, where the digital content is supplied against access to data provided by the consumer, the supplier **shall** refrain from using it, from transferring that data to third parties or allowing third parties to access it **as soon as the contract is terminated**. Fulfilling the obligation to refrain from using data **means, if** the counter-performance consists of personal data, that the supplier **absolutely must** take all measures in order to comply with data protection rules by deleting it or rendering it anonymous in such a way that the consumer **can no longer** be identified by any means likely reasonably to be used either by the supplier or by any other person. Without prejudice to obligations of a controller under Directive 95/46/EC the supplier should not be obliged to undertake any further steps in relation to data which

the supplier has lawfully provided to third parties in the course of the duration of the contract for the supply of the digital content.

Or. fr

**Amendment 296**  
**Angel Dzhambazki**

**Proposal for a directive**  
**Recital 37**

*Text proposed by the Commission*

(37) As a second step, the consumer should be entitled to have the price reduced or the contract terminated. The right of a consumer to have the contract terminated should be limited to those cases where for instance bringing the digital content to conformity is not possible and the non-conformity impairs the main performance features of the digital content. Where the consumer terminates the contract, the supplier should reimburse the price paid by the consumer or, where the digital content is supplied not in exchange for a price but against access to data provided by the consumer, the supplier should refrain from using it, from transferring that data to third parties or allowing third parties to access it after termination of the contract. Fulfilling the obligation to refrain from using data should mean in the case when the counter-performance consists of personal data, that the supplier should take all measures in order to comply with data protection rules by deleting it or rendering it anonymous in such a way that the consumer cannot be identified by any means likely reasonably to be used either by the supplier or by any other person. Without prejudice to obligations of a controller under Directive 95/46/EC the supplier should not be obliged to undertake any further steps in relation to data which the supplier has

*Amendment*

(37) As a second step, the consumer should be entitled to have the price reduced or the contract terminated. The right of a consumer to have the contract terminated should be limited to those cases where for instance bringing the digital content to conformity is not possible and the non-conformity impairs the main performance features of the digital content. Where the consumer terminates the contract, the supplier should reimburse the price paid by the consumer or, where the digital content is supplied not in exchange for a price but against access to data provided by the consumer, ***and that personal data is reasonably identifiable and reasonably retrievable***, the supplier should refrain from using it, from transferring that data to third parties or allowing third parties to access it after termination of the contract. Fulfilling the obligation to refrain from using data should mean in the case when the counter-performance consists of personal data, that the supplier should take all measures in order to comply with data protection rules by deleting it or rendering it anonymous in such a way that the consumer cannot be identified by any means likely reasonably to be used either by the supplier or by any other person. Without prejudice to obligations of a controller under Directive 95/46/EC the

lawfully provided to third parties in the course of the duration of the contract for the supply of the digital content.

supplier should not be obliged to undertake any further steps in relation to data which the supplier has lawfully provided to third parties in the course of the duration of the contract for the supply of the digital content.

Or. en

#### **Amendment 297**

**Kaja Kallas, Dita Charanzová**

#### **Proposal for a directive**

#### **Recital 37**

##### *Text proposed by the Commission*

(37) As a second step, the consumer should be entitled to have the price reduced or the contract terminated. The right of a consumer to have the contract terminated should be limited to those cases where for instance bringing the digital content to conformity is not possible and the non-conformity impairs the main performance features of the digital content. Where the consumer terminates the contract, the supplier should reimburse the price paid by the consumer or, where the digital content is supplied not in exchange for a price but against access to data provided by the consumer, the supplier should refrain from using it, from transferring that data to third parties or allowing third parties to access it after termination of the contract. Fulfilling the obligation to refrain from using data should mean in the case when the counter-performance consists of personal data, that the supplier should take all measures in order to comply with data protection rules by deleting it or rendering it anonymous in such a way that the consumer cannot be identified by any means likely reasonably to be used either by the supplier or by any other person. Without prejudice to obligations of a controller under Directive 95/46/EC the supplier should not be

##### *Amendment*

(37) As a second step, the consumer should be entitled to have the price reduced or the contract terminated. The right of a consumer to have the contract terminated should be limited to those cases where for instance bringing the digital content to conformity is not possible and the non-conformity impairs the main performance features of the digital content. Where the consumer terminates the contract, the supplier should reimburse the price paid by the consumer or, where the digital content is supplied not in exchange for a price but against access to **personal** data provided by the consumer, the supplier should refrain from using it, from transferring that data to third parties or allowing third parties to access it after termination of the contract. Fulfilling the obligation to refrain from using **personal** data should mean in the case when the counter-performance consists of personal data, that the supplier should take all measures **necessary** in order to comply with data protection rules by deleting it or rendering it anonymous in such a way that the consumer cannot be identified by any means likely reasonably to be used either by the supplier or by any other person. Without prejudice to obligations of a controller under Directive

obliged to undertake any further steps in relation to data which the supplier has lawfully provided to third parties in the course of the duration of the contract for the supply of the digital content.

95/46/EC the supplier should not be obliged to undertake any further steps in relation to data which the supplier has lawfully provided to third parties in the course of the duration of the contract for the supply of the digital content.

Or. en

## **Amendment 298**

**Marco Zullo**

### **Proposal for a directive**

#### **Recital 37**

##### *Text proposed by the Commission*

(37) As a second step, the consumer should be entitled to have the price reduced or the contract terminated. The right of a consumer to have the contract terminated should be limited to those cases where for instance bringing the digital content to conformity is not possible and the non-conformity impairs the main performance features of the digital content. Where the consumer terminates the contract, the supplier should reimburse the price paid by the consumer or, where the digital content is supplied not in exchange for a price but against access to data provided by the consumer, the supplier should refrain from using it, from transferring that data to third parties or allowing third parties to access it after termination of the contract. Fulfilling the obligation to refrain from using data should mean in the case when the counter-performance consists of personal data, that the supplier should take all measures in order to comply with data protection rules by deleting it or rendering it anonymous in such a way that the consumer cannot be identified by any means likely reasonably to be used either by the supplier or by any other person. Without prejudice to obligations of a controller under Directive 95/46/EC the supplier should not be

##### *Amendment*

(37) As a second step, the consumer should be entitled to have the price reduced or the contract terminated. The right of a consumer to have the contract terminated should be limited to those cases where for instance bringing the digital content **or service** to conformity is not possible and the non-conformity impairs the main performance features of the digital content. Where the consumer terminates the contract, the supplier should reimburse the price paid by the consumer or, where the digital content **or service** is supplied not in exchange for a price but against access to data provided by the consumer, the supplier should refrain from using it, from transferring that data to third parties or allowing third parties to access it after termination of the contract. Fulfilling the obligation to refrain from using data should mean in the case when the counter-performance consists of personal data, that the supplier should take all measures in order to comply with data protection rules by deleting it or rendering it anonymous in such a way that the consumer cannot be identified by any means likely reasonably to be used either by the supplier or by any other person. Without prejudice to obligations of a controller under Directive

obliged to undertake any further steps in relation to data which the supplier has lawfully provided to third parties in the course of the duration of the contract for the supply of the digital content.

95/46/EC the supplier should not be obliged to undertake any further steps in relation to data which the supplier has lawfully provided to third parties in the course of the duration of the contract for the supply of the digital content.

Or. it

## **Amendment 299**

**Julia Reda**

### **Proposal for a directive**

#### **Recital 37**

*Text proposed by the Commission*

(37) ***As a second step, the consumer should be entitled to have the price reduced or the contract terminated. The right of a consumer to have the contract terminated should be limited to those cases where for instance bringing the digital content to conformity is not possible and the non-conformity impairs the main performance features of the digital content.*** Where the consumer terminates the contract, the supplier should reimburse the price paid by the consumer or, where the digital content is supplied not in exchange for a price but against access to data provided by the consumer, the supplier should refrain from using it, from transferring that data to third parties or allowing third parties to access it after termination of the contract. Fulfilling the obligation to refrain from using data should mean in the case when the counter-performance consists of personal data, that the supplier should take all measures in order to comply with data protection rules by deleting it or rendering it anonymous in such a way that the consumer cannot be identified by any means likely reasonably to be used either by the supplier or by any other person. Without prejudice to obligations of a controller under ***Directive***

*Amendment*

(37) Where the consumer terminates the contract, the supplier should reimburse the price paid by the consumer or, where the digital content is supplied not in exchange for a price but against access to data provided by the consumer, ***as a counter-performance for the digital content supplied or data produced by the consumer during the duration of the contract,*** the supplier should refrain from using it, from transferring that data to third parties or allowing third parties to access it after termination of the contract. Fulfilling the obligation to refrain from using data should mean in the case when the counter-performance consists of personal data, that the supplier should take all measures in order to comply with data protection rules by deleting it or rendering it anonymous in such a way that the consumer cannot be identified by any means likely reasonably to be used either by the supplier or by any other person. ***If personal data protection techniques, such as pseudonymisation, as prescribed in Regulation (EU) 2016/679, are used by the supplier, only after the request made by the consumer, the supplier should refrain from using these data.*** Without prejudice to obligations of a controller under ***Regulation (EU)***



**95/46/EC** the supplier should not be obliged to undertake any further steps in relation to data which the supplier has lawfully provided to third parties in the course of the duration of the contract for the supply of the digital content.

**2016/679** the supplier should not be obliged to undertake any further steps in relation to data which the supplier has lawfully provided to third parties in the course of the duration of the contract for the supply of the digital content.

Or. en

**Amendment 300**  
**Constance Le Grip**

**Proposal for a directive**  
**Recital 37**

*Text proposed by the Commission*

(37) As a second step, the consumer should be entitled to have the price reduced or the contract terminated. The right of a consumer to have the contract terminated should be limited to those cases where for instance bringing the digital content to conformity is not possible and the non-conformity impairs the main *performance* features of the digital content. Where the consumer terminates the contract, the supplier should reimburse the price paid by the consumer or, where the digital content is supplied not in exchange for a price but against access to data provided by the consumer, the supplier should refrain from using it, from transferring that data to third parties or allowing third parties to access it after termination of the contract. Fulfilling the obligation to refrain from using data should mean in the case when the counter-performance consists of personal data, that the supplier should take all measures in order to comply with data protection rules by deleting it or rendering it anonymous in such a way that the consumer cannot be identified by any means likely reasonably to be used either by the supplier or by any other person. Without prejudice to obligations of a controller under Directive 95/46/EC the supplier should not be

*Amendment*

(37) As a second step, the consumer should be entitled to have the price reduced or the contract terminated. The right of a consumer to have the contract terminated should be limited to those cases where for instance bringing the digital content to conformity is not possible and the non-conformity impairs the main features of the digital content. Where the consumer terminates the contract, the supplier should reimburse the price paid by the consumer or, where the digital content is supplied not in exchange for a price but against access to data provided by the consumer, the supplier should refrain from using it, from transferring that data to third parties or allowing third parties to access it after termination of the contract. Fulfilling the obligation to refrain from using data should mean in the case when the counter-performance consists of personal data, that the supplier should take all measures in order to comply with data protection rules by deleting it or rendering it anonymous in such a way that the consumer cannot be identified by any means likely reasonably to be used either by the supplier or by any other person. Without prejudice to obligations of a controller under Directive 95/46/EC the supplier should not be

obliged to undertake any further steps in relation to data which the supplier has lawfully provided to third parties in the course of the duration of the contract for the supply of the digital content.

obliged to undertake any further steps in relation to data which the supplier has lawfully provided to third parties in the course of the duration of the contract for the supply of the digital content.

Or. fr

**Amendment 301**  
**Axel Voss, Eva Maydell**

**Proposal for a directive**  
**Recital 37 a (new)**

*Text proposed by the Commission*

*Amendment*

***(37 a) Where the digital content or digital service is supplied in exchange for personal data, the supplier should comply with the obligations applicable under Regulation (EU) 2016/679 of the European Parliament and of the Council (Data Protection Regulation)[1].***

***[1]Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protecting of natural persons with regard to the processing of personal data and the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation)(OJ L 119 4.5.2016, p. 1-88).***

Or. en

**Amendment 302**  
**Vicky Ford, Daniel Dalton**

**Proposal for a directive**  
**Recital 37 a (new)**

*Text proposed by the Commission*

*Amendment*

***(37 a) This Directive will not require any supplier to take additional data protection***

*measures which are not already covered  
under Regulation (EU) 2016/679.*

Or. en

**Amendment 303**  
**Birgit Collin-Langen**

**Proposal for a directive**  
**Recital 37 a (new)**

*Text proposed by the Commission*

*Amendment*

*(37a) Where the contract is based on the supply of digital content in exchange for a counter-performance other than money, after termination of the contract the data must be treated in accordance with Regulation (EU) 2016/679 of the European Parliament and of the Council<sup>1a</sup>.*

---

*<sup>1a</sup> Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ L 119, 4.5.2016, p. 1.)*

Or. de

**Amendment 304**  
**Julia Reda**

**Proposal for a directive**  
**Recital 38**

*Text proposed by the Commission*

*Amendment*

(38) Upon termination the supplier should also refrain from using the content

(38) Upon termination the supplier should also refrain from using the content

generated by the consumer. However, in those cases where more than one consumer generated particular content, the supplier is entitled to continue to use the content generated by the consumer where those other consumers make use of it.

generated by the consumer. However, in those cases where more than one consumer generated particular content, the supplier is entitled to continue to use the content generated by the consumer where those other consumers make use of it. ***For example, content provided by a consumer under a free licence to a collaborative project should be free to be re-used under the same licence terms under which it was originally provided by the consumer also after a contract was terminated. The consumer should nevertheless be entitled to retrieve such content upon termination of the contract.***

Or. en

**Amendment 305**  
**Daniel Dalton, Vicky Ford**

**Proposal for a directive**  
**Recital 38**

*Text proposed by the Commission*

(38) Upon termination the supplier should also refrain from using the content generated by the consumer. However, in those cases where more than one consumer generated particular content, the supplier is entitled to continue to use the content generated by the consumer where those other consumers make use of it.

*Amendment*

(38) Upon termination the supplier should also refrain from using the ***personal data and data and*** content generated by the consumer. However, in those cases where more than one consumer generated particular content, the supplier is entitled to continue to use the content generated by the consumer where those other consumers make use of it.

Or. en

*Justification*

*More clarity is needed that the supplier should be restricted from using content and data personally identifiable as the consumer's, with the exception of content generated by multiple consumers and where continued use by other consumers is undertaken.*

**Amendment 306**

**Kaja Kallas, Dita Charanzová**

**Proposal for a directive**

**Recital 38**

*Text proposed by the Commission*

(38) Upon termination the supplier should also refrain from using the content ***generated*** by the consumer. However, in ***those*** cases where more than one consumer generated particular content, the supplier ***is*** entitled to continue to use the content generated by the consumer where those other consumers make use of it.

*Amendment*

(38) Upon termination, the supplier should also refrain from using the content ***provided*** by the consumer. However, in cases where more than one consumer ***has*** generated particular content, the supplier ***should be*** entitled to continue to use the content generated by the consumer where those other consumers make use of it.

Or. en

**Amendment 307**

**Evelyne Gebhardt, Virginie Rozière, Lucy Anderson, Liisa Jaakonsaari, Christel Schaldemose, Anna Hedh, Marc Tarabella, Catherine Stihler, Evelyn Regner**

**Proposal for a directive**

**Recital 38**

*Text proposed by the Commission*

(38) Upon termination the supplier should ***also refrain from using*** the content generated by the consumer. However, in those cases where more than one consumer generated particular content, the supplier is entitled to continue to use the content generated by the consumer where those other consumers make use of it.

*Amendment*

(38) Upon termination the supplier should ***stop processing*** the content generated by the consumer. However, in those cases where more than one consumer generated particular content, the supplier is entitled to continue to use the content generated by the consumer where those other consumers make use of it.

Or. en

*Justification*

*See justification of amendment to recital 37.*

**Amendment 308**

**Jean-Marie Cavada**

**Proposal for a directive**

### Recital 38

#### *Text proposed by the Commission*

(38) Upon termination the supplier ***should also refrain from using*** the content generated by the consumer. However, in those cases where more than one consumer generated particular content, the supplier is entitled to continue to use the content generated by the consumer where those other consumers make use of it.

#### *Amendment*

(38) Upon termination the supplier ***may not use*** the content generated by the consumer. However, in those cases where more than one consumer generated particular content, the supplier is entitled to continue to use the content generated by the consumer where those other consumers make use of it.

Or. fr